

NATTRAN/SE/HAO/297

EAST SUSSEX COUNTY COUNCIL

HIGHWAYS ACT 1980

ACQUISITION OF LAND ACT 1981

**THE EAST SUSSEX COUNTY COUNCIL (EXCEAT BRIDGE REPLACEMENT – A259 EASTBOURNE ROAD)
COMPULSORY PURCHASE ORDER 2023**

**THE EAST SUSSEX COUNTY COUNCIL (EXCEAT BRIDGE REPLACEMENT – A259 EASTBOURNE ROAD)
(CLASSIFIED ROADS) (SIDE ROADS) ORDER 2023**

**THE EAST SUSSEX COUNTY COUNCIL (EXCEAT BRIDGE REPLACEMENT – A259 EASTBOURNE ROAD)
BRIDGE SCHEME 2023**

VOLUME 2 – LEGISLATION AND GUIDANCE

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Human Rights Act 1998 c. 42

s. 15 Reservations.



Law In Force

Version 3 of 3

19 August 2003 - Present

Subjects

Human rights

Keywords

Human rights; Ministers' powers and duties; Reservations; Statutory definition; Treaties

15.— Reservations.

(1) In this Act “*designated reservation*” means—

(a) the United Kingdom’s reservation to Article 2 of the First Protocol to the Convention; and

(b) any other reservation by the United Kingdom to an Article of the Convention, or of any protocol to the Convention, which is designated for the purposes of this Act in an order made by the [Secretary of State]¹.

(2) The text of the reservation referred to in subsection (1)(a) is set out in [Part II of Schedule 3](#).

(3) If a designated reservation is withdrawn wholly or in part it ceases to be a designated reservation.

(4) But subsection (3) does not prevent the [Secretary of State]¹ from exercising his power under subsection (1)(b) to make a fresh designation order in respect of the Article concerned.

(5) The [Secretary of State]¹ must by order make such amendments to this Act as he considers appropriate to reflect—

(a) any designation order; or

(b) the effect of subsection (3).

Notes

- 1 Words substituted by Secretary of State for Constitutional Affairs Order 2003/1887 [Sch.2 para.10\(1\)](#) (August 19, 2003)
-

Derogations and reservations > s. 15 Reservations.

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Human Rights Act 1998 c. 42

Schedule 1 THE ARTICLES

para. 1



Law In Force

Version 1 of 1

2 October 2000 - Present

Subjects

Constitutional law; Human rights

Keywords

Constitutional rights; Human rights

RIGHTS AND FREEDOMS

Right to life

Article 2

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.
2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:
 - (a) in defence of any person from unlawful violence;
 - (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
 - (c) in action lawfully taken for the purpose of quelling a riot or insurrection.

Prohibition of torture

Article 3

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Prohibition of slavery and forced labour

Article 4

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour.
3. For the purpose of this Article the term “*forced or compulsory labour*” shall not include:
 - (a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
 - (b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;
 - (c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
 - (d) any work or service which forms part of normal civic obligations.

Right to liberty and security

Article 5

1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
 - (a) the lawful detention of a person after conviction by a competent court;
 - (b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
 - (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
 - (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
 - (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
 - (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a

person against whom action is being taken with a view to deportation or extradition.

2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.
3. Everyone arrested or detained in accordance with the provisions of paragraph 1(c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.
4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

Right to a fair trial

Article 6

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.
2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
3. Everyone charged with a criminal offence has the following minimum rights:
 - (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
 - (b) to have adequate time and facilities for the preparation of his defence;
 - (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
 - (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

No punishment without law

Article 7

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.
2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.

Right to respect for private and family life

Article 8

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Freedom of thought, conscience and religion

Article 9

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Freedom of expression

Article 10

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Freedom of assembly and association

Article 11

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

Right to marry

Article 12

Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.

Prohibition of discrimination

Article 14

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Restrictions on political activity of aliens

Article 16

Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.

Prohibition of abuse of rights

Article 17

Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.

Limitation on use of restrictions on rights

Article 18

The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.

Schedule 1 THE ARTICLES > Part I THE CONVENTION > para. 1

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Equality Act 2010 c. 15

s. 149 Public sector equality duty



Law In Force

Version 1 of 1

5 April 2011 - Present

Subjects

Employment; Government administration; Local government

Keywords

Public sector equality duty

149 Public sector equality duty

- (1) A public authority must, in the exercise of its functions, have due regard to the need to—
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- (2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).
- (3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

(4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

(5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

(a) tackle prejudice, and

(b) promote understanding.

(6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

(7) The relevant protected characteristics are—

age;

disability;

gender reassignment;

pregnancy and maternity;

race;

religion or belief;

sex;

sexual orientation.

(8) A reference to conduct that is prohibited by or under this Act includes a reference to—

(a) a breach of an equality clause or rule;

(b) a breach of a non-discrimination rule.

(9) [Schedule 18](#) (exceptions) has effect.

Part 11 ADVANCEMENT OF EQUALITY > Chapter 1 PUBLIC SECTOR EQUALITY DUTY > s. 149 Public sector equality duty

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Ministry of Housing,
Communities &
Local Government

Guidance on the Compulsory Purchase Process

This compulsory purchase guidance updates the previous version published in October 2024. It applies only to England.

The guidance contains internal hyperlinks to navigate within the document. You may need to install command icons on your toolbar to allow you to do this. This can be done by downloading the document then opening it as a PDF. Go to View, then Page Navigation and select Previous view/Next view. Once you click on a hyperlink, you can use the Previous arrow to take you back to your original place in the document.



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Tier 1: Compulsory Purchase Overview

Guidance relevant to all compulsory purchase orders

This tier contains guidance on:

- [General overview](#)
- The [compulsory purchase process](#):
 - [Stage 1: Choosing the right compulsory purchase power](#)
 - [Stage 2: Justifying a compulsory purchase order](#)
 - [Stage 3: Preparing and making a compulsory purchase order](#)
 - [Stage 4: Consideration of the compulsory purchase order](#)
 - [Stage 5: Implementing a compulsory purchase order](#)
 - [Stage 6: Compensation](#)

Additional guidance on the preparation, drafting and submission of compulsory purchase orders for highway schemes and car parks is set out in Department for Transport *Local Authority Circular 2/97: Notes on the preparation, drafting and submission of compulsory purchase orders for highway schemes and car parks for which the Secretary of State for Transport is the confirming authority*.

General Overview

1. What are compulsory purchase powers?

- 1.1 These are powers which enable ('enabling powers') public bodies on which they are conferred to acquire land compulsorily. Compulsory purchase of land requires the approval of the confirming authority (see [Who will take the decision to confirm or not a compulsory purchase order?](#) for a definition of "confirming authority").
- 1.2 Compulsory purchase powers are an important tool to use as a means of assembling the land needed to help deliver social, environmental and economic change. Used properly, they can contribute towards effective and efficient urban and rural regeneration, essential infrastructure, the revitalisation of communities, and the promotion of business – leading to improvements in quality of life.
- 1.3 Where the term "land" is used in this Guidance it includes proprietary interests and rights in land as the context may allow.

2. When should compulsory purchase powers be used?

- 2.1 Acquiring authorities should use compulsory purchase powers where it is expedient to do so and where there is a compelling case in the public interest to make a compulsory purchase order.
- 2.2 The confirming authority will expect the acquiring authority to demonstrate that they have taken reasonable steps to:
 - understand the impact of the exercise of the compulsory purchase powers included in the compulsory purchase order and the acquisition of a person's interest in the land on those persons, for example affected owners and occupiers, through direct engagement with those parties
 - attempt the acquisition of all of the land and rights included in the compulsory purchase order by agreement
- 2.3 The reasonable steps to be taken will depend on the particular circumstances of each case. For example, the acquiring authority may decide not to continue with attempts to engage if the affected party has made it clear to the authority that they do not wish to communicate with the authority. Alternatively, a single attempt made by an acquiring authority to engage an affected party without eliciting a response is unlikely to be sufficient.
- 2.4 An affected party may be willing to engage with the acquiring authority on the impact of the exercise of compulsory purchase powers that it proposes to use but not on the acquisition of their interest by agreement. An acquiring authority would be expected to engage with the affected party on that impact despite the affected party not being willing to discuss the acquisition of their interest by agreement.

- 2.5 The confirming authority will expect the acquiring authority to have considered what mitigation measures will be in place against any identified impacts of the exercise of the compulsory purchase powers included in the compulsory purchase order and the acquisition of a person's interest in the land. This may be through mitigation already built into the existing compulsory purchase order process and compensation regimes, or through specific mitigations put in place for the compulsory purchase order to deal with identified issues. For example, relocation options or charters for residents or businesses who wish to relocate. Identifying impacts early and considering possible mitigations may assist in discussions with affected parties.
- 2.6 This may mean agreement on the acquisition of land and rights is reached avoiding the need for the use of compulsory purchase powers or minimising the number of objections received to the compulsory purchase order.
- 2.7 Where acquiring authorities secure the acquisition of land by agreement, they may pay compensation as if it had been compulsorily purchased, unless the land was already on offer on the open market.
- 2.8 Compulsory purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of projects. However, an acquiring authority does not need to wait for negotiations with affected parties to break down or for the affected parties to begin to engage with them before starting the compulsory purchase process in parallel with negotiations. Delaying the start of the compulsory purchase process can result in valuable time in progressing a project being lost. Therefore, depending on when the land and/or rights are required, it may often be sensible, given the amount of time required to complete the compulsory purchase process, for the acquiring authority to:
- plan a compulsory purchase timetable as a contingency measure
 - initiate formal procedures
- 2.9 This will also help to make the seriousness of the acquiring authority's intentions clear from the outset, which in turn can encourage those whose land is affected to enter more readily into meaningful engagement. In starting these procedures, the acquiring authority should make it clear that it is willing to continue to engage with affected parties to purchase land by agreement.
- 2.10 When making and confirming a compulsory purchase order, acquiring authorities and confirming authorities (see [Who will take the decision to confirm or not a compulsory purchase order?](#) for a definition of 'confirming authority') should be sure that the purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected. The officers' report seeking authorisation for the compulsory purchase order to be made by the respective acquiring authority should address human rights issues. Further guidance on human rights can be found on the [Equality and Human Rights Commission's website](#).

3. What should acquiring authorities consider when offering financial compensation in advance of a compulsory purchase order?

- 3.1 When offering financial compensation for land in advance of the making of a compulsory purchase order (including orders which include a direction applying section 14A of the Land Compensation Act 1961 – see [Section 27: Compulsory purchase orders which include directions to remove the prospects of planning permission from the assessment of compensation](#)), public sector organisations should consider value for money as a whole in order to avoid any repercussive cost impacts or pressures on both the scheme in question and other publicly-funded schemes.
- 3.2 Acquiring authorities can consider all of the costs involved in the compulsory purchase process when assessing the appropriate payments for purchase of land in advance of compulsory purchase. For instance, the early acquisition may avoid some of the following costs being incurred:
- legal fees (both for the order making process as a whole and for dealing with individual objectors within a wider order, including compensation claims)
 - wider compulsory purchase order process administrative costs (for example, staff resources or costs of publishing public notices in newspapers or serving notices)
 - the overall cost of project delay (for example, caused by delay in gaining entry to the land)
 - any other reasonable linked costs (for example, potential for objectors to create further costs through satellite litigation on planning permissions and other orders)

In order to reach early settlements, public sector organisations should make reasonable initial offers, and be prepared to engage constructively with claimants about relocation issues and mitigation and accommodation works where relevant.

4. Who has compulsory purchase powers?

- 4.1 Many public bodies with statutory powers have compulsory purchase powers, including:
- local authorities (which include for some purposes national park authorities)
 - statutory undertakers
 - some executive agencies, including Homes England¹
 - health service bodies

¹ Homes England is the trading name for the Homes and Communities Agency (HCA) and operates under the powers given to the HCA in the Housing and Regeneration Act 2008.

Government ministers also have compulsory purchase powers, but departments that use them will have their own internal guidance.

5. How is a compulsory purchase order made?

- 5.1 Detailed guidance is provided in the section on [the compulsory purchase order process](#).

6. How should the Public Sector Equality Duty be taken into account in the compulsory purchase regime?

- 6.1 All public sector acquiring authorities are bound by the Public Sector Equality Duty as set out in [section 149 of the Equality Act 2010](#). Throughout the compulsory purchase process, acquiring authorities must have due regard to the need to: (a) eliminate unlawful discrimination, harassment, victimisation; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. In performing their public functions, acquiring authorities must have due regard to the need to meet these three aims of the Equality Act 2010.
- 6.2 For example, an important use of compulsory purchase powers is to help regenerate run-down areas. Although low income is not a protected characteristic, it is not uncommon for people from ethnic minorities, the elderly or people with a disability to be over-represented in low income groups. As part of the Public Sector Equality Duty, acquiring authorities must have due regard to the need to promote equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This might mean that the acquiring authority devises a process which promotes equality of opportunity by addressing particular problems that people with certain protected characteristics might have (e.g. making sure that documents are accessible for people with sight problems or learning difficulties and that people have access to advocates or advice).

7. Can anyone else initiate compulsory purchase?

- 7.1 In certain circumstances an owner may also initiate a compulsory purchase process. An owner may initiate the process by serving:
- a purchase notice under [section 137 of the Town and Country Planning Act 1990](#) and [section 32 of the Planning \(Listed Buildings and Conservation Areas\) Act 1990](#) - served by landowners following an adverse planning or listed building consent decision where, in specified circumstances, they consider that the land has become incapable of reasonable beneficial use in its existing state (guidance on Purchase Notices is available on our website at: <https://www.gov.uk/government/collections/compulsory-purchase-system-guidance>)

- a blight notice under [section 150 of the Town and Country Planning 1990 Act](#) - served by landowners where they have made reasonable endeavours to sell their land but, because of blight caused by planning proposals affecting the land, they have not been able to do so, except at a substantially lower price than might reasonably have been expected. Blight notices can only be served in the circumstances listed in [Schedule 13 to the Town and Country Planning Act 1990](#)

8. Are there any other ways to compulsorily acquire land?

8.1 Other powers of compulsory purchase include:

- a Transport and Works Act order under the Transport and Works Act 1992 - guidance on Transport and Works Act orders is available from the [Department for Transport](#)
- a development consent order under the Planning Act 2008 for a Nationally Significant Infrastructure Project - guidance is available [here](#)
- a hybrid act of Parliament, such as the Crossrail Act 2008, which is one promoted by the government but in relation to specified land rather than the UK as a whole
- a harbour revision order and a harbour empowerment order under the Harbours Act 1964 – guidance is available [here](#)

This guidance relates to the use of compulsory purchase powers to make a compulsory purchase order that is provided by a specific Act of Parliament and requires the approval of a confirming authority.

The compulsory purchase order process

9. What is the process for making a compulsory purchase order?

9.1 There are six key stages in the process:

- [Stage 1: Choosing the right compulsory purchase power](#)
- [Stage 2: Justifying a compulsory purchase order](#)
- [Stage 3: Preparing and making a compulsory purchase order](#)
- [Stage 4: Consideration of the compulsory purchase order](#)
- [Stage 5: Implementing a compulsory purchase order](#)
- [Stage 6: Compensation](#)

Stage 1: Choosing the right compulsory purchase power

10. When can an acquiring authority use its compulsory purchase powers?

- 10.1 There are a large number of enabling powers, each of which specifies the bodies that are acquiring authorities for the purposes of the power and the purposes for which the land can be acquired. The purpose for which an acquiring authority seeks to acquire land will determine the statutory power under which compulsory purchase is sought. This in turn will influence the factors which the confirming authority will want to take into account in deciding whether to [confirm a compulsory purchase order](#).
- 10.2 Most acts containing enabling powers specify that the procedures in the [Acquisition of Land Act 1981](#) apply to orders made under those powers. Where this is the case, an acquiring authority must follow those procedures.

11. Which power should an acquiring authority use to make a compulsory purchase order?

- 11.1 Acquiring authorities should look to use the most specific power available for the purpose in mind, and only use a general power when a specific power is not available. The authority should have regard to any guidance relating to the use of the power and adhere to any legislative requirements relating to it.
- 11.2 Specific guidance is available for:
- [local authorities for planning purposes](#)
 - [local authorities in conjunction with other powers or where land is required for more than one function](#)
 - [Homes England](#)
 - [urban development corporations](#)
 - [new town development corporations](#)
 - [Mayoral development corporations](#)
 - [local housing authorities for housing purposes](#)
 - [to improve the appearance or condition of land](#)
 - [for educational purposes](#)
 - [for public libraries and museums](#)
 - [for airport Public Safety Zones](#)
 - [for listed buildings in need of repair](#)
 - [for the purposes of facilitating biodiversity net gain](#)

Stage 2: Justifying a compulsory purchase order

12. How does an acquiring authority justify a compulsory purchase order?

- 12.1 It is the acquiring authority that must decide how best to justify its proposal to compulsorily acquire land under a particular act. The acquiring authority will need to be ready to defend the proposal at any inquiry or through written representations and, if necessary, in the courts.
- 12.2 There are certain fundamental principles that a confirming authority should consider when deciding whether or not to confirm a compulsory purchase order (see [How will the confirming authority consider the acquiring authority's justification for a compulsory purchase order?](#)). Acquiring authorities may find it useful to take account of these in preparing their justification.
- 12.3 A compulsory purchase order should only be made where there is a compelling case in the public interest and reasonable efforts have been made by the acquiring authority to negotiate the purchase of land by agreement.
- 12.4 An acquiring authority should be sure that the purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected. Particular consideration should be given to the provisions of Article 1 of the First Protocol to the [European Convention on Human Rights](#) and, in the case of a dwelling, Article 8 of the Convention. Acquiring authorities should also give consideration to the public sector equality duty (see [How should the Public Sector Equality Duty be taken into account in the compulsory purchase regime?](#)).

13. How will the confirming authority consider the acquiring authority's justification for a compulsory purchase order?

- 13.1 The confirming authority when considering a compulsory purchase order has to be able to take a balanced view between the intentions of the acquiring authority and the concerns of those with an interest in the land that it is proposing to acquire compulsorily and the wider public interest. The more comprehensive the justification which the acquiring authority can present, the stronger its case is likely to be.
- 13.2 The confirming authority will consider each case on its own merits and this guidance is not intended to imply that the confirming authority will require any particular degree of justification for any specific order. It is not essential to show that land is required immediately to secure the purpose for which it is to be acquired. However, a confirming authority will need to understand, and the acquiring authority be able to demonstrate, that there are sufficiently compelling reasons for the powers to be sought at this time.

- 13.3 The acquiring authority should have a clear idea of how it intends to use the land which it is proposing to acquire and show that all the necessary resources are likely to be available to achieve that end within a reasonable timescale. If it is unable to do so, then it may be difficult to show conclusively that the compulsory acquisition of the land included in the compulsory purchase order is justified in the public interest. However, it will not always be possible for acquiring authorities to have specific, detailed proposals for the land included in a compulsory purchase order beyond the general planning framework for the area (including a masterplan for the land) which has been endorsed by the acquiring authority). In these cases, the confirming authority will expect the statement of reasons accompanying the submission of the compulsory purchase order to include a summary of the planning framework for the land concerned in sufficient detail to give reassurance of the use of the land following acquisition and the justification for the timing of the acquisition.
- 13.4 The confirming authority will need to be satisfied that the interests of those affected by the exercise of the compulsory purchase powers have been considered. The confirming authority will also have regard to any mitigation offered by the acquiring authority when considering the impact of the exercise of the compulsory purchase powers included in the compulsory purchase order on affected parties.

14. What information about the resource implications of the proposed scheme does an acquiring authority need to provide?

- 14.1 In preparing its justification for the compulsory purchase order, the acquiring authority should address:
- a) **sources of funding** - the acquiring authority should provide substantive information as to the sources of funding available for both acquiring the land and implementing the scheme for which the land is required. If the scheme is not intended to be independently financially viable, or the details cannot be finalised until there is certainty that the necessary land will be required, the acquiring authority should provide an indication of how any potential shortfalls are intended to be met. This should include:
 - the degree to which other bodies (including the private sector) have agreed to make financial contributions or underwrite the scheme
 - the basis on which the contributions or underwriting is to be made
 - b) **timing of that funding** - funding should generally be available now or early in the process. Failing that, the confirming authority would expect funding to be available to complete the compulsory acquisition within the statutory period (see section 4 of the Compulsory Purchase Act 1965) following the [operative date](#). In some circumstances it would be reasonable for an acquiring authority to acquire land with little prospect of the scheme being implemented for a number of years. For example, where funding is available to acquire the land for masterplanning purposes but the actual delivery of the underlying scheme is not immediate.

Evidence should also be provided to show that sufficient funding could be made available immediately to cope with any acquisition resulting from a [blight notice](#).

15. How does the acquiring authority address whether there are any other impediments to the scheme going ahead?

- 15.1 It is not expected that all impediments to the delivery of a scheme will have been removed or overcome by the point at which the decision on the confirmation of a compulsory purchase order is made. It may be necessary to assemble land before removing or overcoming certain impediments to maximise the opportunities that exist for an area. The acquiring authority will however need to be able to show that the implementation of the scheme following the confirmation decision being made is unlikely to be blocked by any physical or legal impediments. These include:
- the programming of any infrastructure accommodation works or remedial work which may be required
 - any need for planning permission or other consent or licence
- 15.2 Where planning permission will be required for the scheme, and permission has yet to be granted, the acquiring authority should demonstrate to the confirming authority that there are no obvious reasons why it might be withheld.

Stage 3: Preparing and making a compulsory purchase order

16. Can acquiring authorities enter land before deciding whether to include it in a compulsory purchase order?

- 16.1 Acquiring authorities have the right to enter and survey or value land in connection with a proposal to acquire an interest in or a right over land under powers in [sections 172-179 of the Housing and Planning Act 2016](#) ("the 2016 Act").
- 16.2 If an acquiring authority wishes to conduct a survey or valuation of land prior to a compulsory purchase order being made or confirmed, it should engage with the landowner or occupier to seek their permission for access onto the land before exercise of the power of entry under [section 172 of the 2016 Act](#) is considered. This is important because it will help the acquiring authority to understand whether conducting a survey or valuation would have any adverse effects on the person, business or land and what measures could be taken to mitigate those effects.
- 16.3 When exercising the power of entry under [section 172 of the 2016 Act](#), a person authorised in writing by an acquiring authority:
- (a) may only enter and survey or value the land at a reasonable time
 - (b) may not use force unless a justice of the peace has issued a warrant under [section 173\(1\) of the 2016 Act](#) authorising the person to do so if they are satisfied that:
 - (i) another person has prevented, or is likely to prevent, the exercise of that power
 - (ii) it is reasonable to use force in the exercise of that power
- 16.4 A verbal or written refusal of permission by a landowner or occupier to allow access onto land should not be treated as an act of preventing the exercise of the power of entry under section 172 of the 2016 Act unless they state in the verbal or written communication that they intend to carry out a physical act to prevent the exercise of the power. Examples of physical acts to prevent entry, which may result an application for a warrant being made, could include padlocking gates, an individual padlocking/gluing themselves to gates, or the physical obstruction of access with vehicles or machinery.
- 16.5 A warrant issued under [section 173\(1\) of the 2016 Act](#) must specify the number of occasions on which the warrant can be relied on by a person wishing to use force to enter and survey or value land. The number specified must be the number which the justice of the peace considers appropriate to achieve the purpose for which the entry and survey or valuation are required.
- 16.6 A person who obstructs the exercise of the power of entry under [section 172 of the 2016 Act](#), without reasonable excuse, commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

A person also commits an offence if they disclose confidential information obtained in the exercise of the section 172 power i.e. information which constitutes a trade secret or the disclosure of which would or would be likely to prejudice the commercial interests of any person, for purposes other than those for which the power was exercised. The person will be liable on summary conviction to a fine, or, on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or both.

16.7 A minimum of 14 days' notice of entry must be given to owners and occupiers of the land concerned and compensation is payable by acquiring authorities for any damage arising as a result of the exercise of the powers under section 172 of the 2016 Act. If the land which is the subject of the survey or valuation is unoccupied, or the occupier is absent from the land when the acquiring authority enters it, the land must be left as secure as when the person entered it.

16.8 The notice of entry must include:

- (a) a statement of the recipient's rights under [section 176 of the 2016 Act](#) i.e. that compensation is available for damages caused by entry onto the land as a result of the exercise of the section 172 power, for example, damage caused to property
- (b) a copy of the warrant if one has been issued under [section 173\(1\) of the 2016 Act](#)
- (c) if the acquiring authority proposes to do any of the following activities details of what is proposed:
 - (i) searching, boring or excavating
 - (ii) leaving apparatus on the land
 - (iii) taking samples
 - (iv) an aerial survey
 - (v) carrying out any other activities that may be required to facilitate compliance with the instruments mentioned in [section 174\(5\) of the 2016 Act](#)

If the acquiring authority obtains a warrant after giving notice of entry, it must give a copy of the warrant to all those to whom it gave that notice.

- 16.9 Written authorisation from the appropriate Minister is required before the power of entry under [section 172 of the 2016 Act](#) can be exercised if -
- (a) the land is held by a statutory undertaker and it objects in writing to the acquiring authority regarding the proposed entry and survey or valuation of the land
 - (b) the objection is that the proposed entry and survey or valuation would be seriously detrimental to the statutory undertaker carrying on its undertaking
- 16.10 A person may only exercise the power of entry under [section 172 of the 2016 Act](#) in relation to Crown land if they have the permission of the appropriate authority (as defined in [section 293 of the Town and Country Planning Act 1990](#)).
- 16.11 Any disputes relating to compensation for damages caused by entry onto the land as a result of the exercise of the power of entry under section 172 are determined by the Upper Tribunal (Lands Chamber). Also, the provisions of [section 4 of the Land Compensation Act 1961](#) in relation to costs apply to the determination of such disputes.

17. What are the benefits of undertaking negotiations and engagement prior to, and in parallel with, preparing and making a compulsory purchase order?

- 17.1 Undertaking negotiations and engagement prior to, and in parallel with, preparing and making a compulsory purchase order can help build good working relationships with those whose interests are affected. Acquiring authorities should be open and honest with those whose interests are affected and treat their concerns with respect. This includes statutory undertakers and similar bodies as well as private individuals and businesses. Early communication with those whose interests are affected in the preparation of a compulsory purchase order will assist the acquiring authority understand more about:
- (a) the land and rights it seeks to acquire
 - (b) the impact of the exercise of the compulsory purchase powers included in the compulsory purchase order on those whose interests are affected
 - (c) the amount of compensation which may be payable to those with an interest in the land if the compulsory purchase powers were to be exercised
 - (d) any physical or legal impediments to development that may exist
- 17.2 Acquiring authorities are encouraged to engage early and communicate regularly with those whose interests are affected (in particular on relocation issues) and who have indicated a willingness to engage with the authority. Greater transparency and community engagement, including with the wider community, early in the compulsory purchase order process can increase the likelihood of a compulsory purchase order being confirmed.

- 17.3 Such engagement can also help save time at the formal objection stage of the compulsory purchase order process by minimising misunderstandings which may arise. They may also help limit objections by identifying what measures can be put in place by the acquiring authority to minimise the impacts of the exercise of the compulsory purchase powers included in the compulsory purchase order on affected parties. This can also help reduce the costs of a scheme.
- 17.4 Acquiring authorities should consider a variety of different engagement methods to engage with those whose interests are affected to explain proposals, answer questions and confirm whether alterations can be made to their schemes.
- 17.5 It is essential acquiring authorities remove potential barriers and minimise risks to schemes by assessing potential objections up-front and building the arguments into the case for the compulsory purchase order.
- 17.6 Those with an interest in land, who are often involuntary participants in the compulsory purchase process, can in some instances argue that they do not receive adequate compensation and compensation is not paid out early enough, if at all. Understanding those concerns, communicating clearly and working at an early stage with those whose interests are affected, and sustaining engagement throughout the compulsory purchase process, including through alternative dispute resolution techniques, can deliver positive results for all parties involved. This can also prevent compensation cases from turning into referrals to the Upper Tribunal (Lands Chamber) or disputes over legal costs.
- 17.7 Agreeing to reimburse owners' and occupiers' reasonable costs of negotiation, or other costs and expenses likely to be incurred in advance of the process of acquisition, can help build relations and help the scheme proceed more efficiently. Further guidance on the award of costs in the case of compulsory purchase orders can be found on our website at: [Appeals - GOV.UK \(www.gov.uk\)](https://www.gov.uk/appeals).
- 17.8 Acquiring authorities are expected to provide evidence that the negotiations and engagement set out in [When should compulsory purchase powers be used?](#) have been undertaken, save for lands where land ownership is unknown or in question.

18. Can alternative dispute resolution techniques be used to address concerns about a compulsory purchase order?

- 18.1 In the interests of speed and fostering good will, acquiring authorities are urged to consider offering those with concerns about a compulsory purchase order full access to alternative dispute resolution techniques. These should involve a suitably qualified independent third party and should be available wherever appropriate throughout the whole of the compulsory purchase process, from the planning and preparation stage to agreeing the compensation payable for the acquired properties.
- 18.2 The use of alternative dispute resolution techniques can save time and money for both parties, while its relative speed and informality may also help to reduce the stress which the process inevitably places on those whose properties are affected.

For example, mediation might help to clarify concerns relating to the principle of compulsorily acquiring the land, while other techniques such as early neutral evaluation might help to relieve worries at an early stage about the potential level of compensation eventually payable if the order were to be confirmed.

19. What other steps should be considered to help those affected by a compulsory purchase proposal?

19.1 Compulsory purchase proposals will inevitably lead to a period of uncertainty and anxiety for those with an interest in the land whether that is prior to, during or after the making of a compulsory purchase order. Acquiring authorities should therefore:

- (a) provide full information from the outset about what the compulsory purchase process involves, the rights and duties of those affected and an indicative timetable of events - information should be in a format accessible to all those affected
- (b) inform owners and occupiers of guidance which is publicly available and professionally published on compulsory purchase and compensation including: this guidance, the Department's plain English guides, and any information or guidance published by the acquiring authority (including on the scheme) or other professional body
- (c) appoint a specified case manager during the preparatory stage to whom those with concerns about the proposed acquisition can have easy and direct access
- (d) make owners and occupiers aware of professional advice available to assist them in understanding the impact of the scheme on their interest and the appropriate compensation which may be available to them
- (e) where appropriate, in particular for estate regeneration or similar types of schemes, offer advice and assistance to affected occupiers in respect of their relocation and provide details of, and discuss with the occupier, available relocation properties
- (f) keep any delay to a minimum by completing the statutory process as quickly as possible and taking every care to ensure that the compulsory purchase order is made correctly and under the terms of the most appropriate enabling power

Acquiring authorities should also:

- (g) consider providing a 'not before' date, confirming that acquisition will not take place before a certain time

- (h) where appropriate, give consideration to agreeing to fund owners' or occupiers' reasonable costs of negotiation or other costs and expenses likely to be incurred in advance of the process of acquisition. For example, professional fees for the undertaking of surveys or reports to assist in understanding the impact of the exercise of compulsory purchase powers included in a compulsory purchase order on particular land
- (i) consider offering to alleviate concerns about future compensation entitlement by entering into agreements about the minimum level of compensation which would be payable if the acquisition goes ahead (not excluding the claimant's future right to refer the matter to the Upper Tribunal (Lands Chamber))
- (j) consider agreeing to fund owners' and occupiers' reasonable costs and expenses anticipated to be incurred by those owners and occupiers before an alternative property is acquired and the costs/expenses incurred. For example, professional fees for the undertaking of surveys or reports to assist in understanding the impact on the owner or occupier of the exercise of compulsory purchase powers

The acquiring authority's statement of reasons should explain how and to what extent the actions raised in the list above have been taken. Where an action has not been taken, the statement of reasons should set out why the acquiring authority decided to take this approach.

20. Why is it important to make sure that a compulsory purchase order is made correctly?

- 20.1 The confirming authority has to be satisfied that the statutory procedures have been followed correctly, whether the compulsory purchase order is opposed or not. This means that the confirming authority has to check that no one has been or will be substantially prejudiced as a result of:
 - a defect in the compulsory purchase order
 - by a failure to follow the correct procedures, such as the service of additional or amended personal notices
- 20.2 Where the procedures set out in the Acquisition of Land Act 1981 apply, acquiring authorities must prepare compulsory purchase orders in conformity with the [Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) Regulations 2004 \(as amended\)](#)² and are urged to take every possible care in doing so, including recording the names and addresses of those with an interest in the land to be acquired. (See also [Can acquiring authorities seek advice from the confirming department?.](#))

² The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by [The Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) \(Amendment\) Regulations 2024](#)

20.3 Advice on how to complete the forms of orders to which the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (as amended)³ apply is available in [Section 16: Preparing and serving the compulsory purchase order and notices](#) below.

21. Are there any other important matters that may require consideration when making a compulsory purchase order?

21.1 Where relevant, acquiring authorities should also have regard to advice available on:

- the [need to justify the extent of the scheme to be disregarded under the 'no scheme principle' for the purposes of assessing the value of land to be acquired](#)
- [the protection afforded to special kinds of land](#)
- [compulsory purchase of new rights and other interests](#) - for example, in the compulsory creation of a right of access
- [restrictions on the compulsory purchase of Crown land](#)
- [justifying the inclusion of a direction in a compulsory purchase order which applies section 14A of the Land Compensation Act 1961](#)

22. How should acquiring authorities deal with any personal data collected in relation to a compulsory purchase order?

22.1 Acquiring authorities must ensure they comply with their obligations under the General Data Protection Regulations and Data Protection Act 2018 when undertaking a compulsory purchase order. As part of this, acquiring authorities need to provide information to any individuals involved in the process about how their personal data will be used ('privacy notifications'). This includes where the acquiring authority is serving notices on individuals or affixing site notices.

22.2 The notices required to be published and affixed by an acquiring authority under [section 11 of the Acquisition of Land Act 1981](#) must amongst other things:

- (a) state the name of the place where a copy of the compulsory purchase order and map may be inspected
- (b) specify the website on which a copy of the compulsory purchase order and map may be viewed

³ The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by The [Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) \(Amendment\) Regulations 2024](#)

- 22.3 The prescribed form for a compulsory purchase order requires the personal data of individuals whose interests are proposed to be acquired under the order to be set out in the schedule to the order. When making a copy of the compulsory purchase order available to inspect or on a website, the acquiring authority is permitted by the General Data Protection Regulations and Data Protection Act 2018 to disclose the personal information contained in the schedule to the order without redaction because it is under a legal obligation to publish the compulsory purchase order as prescribed under the Acquisition of Land Act 1981.
- 22.4 For compulsory purchase order cases where the Secretary of State who has responsibility for housing and planning matters is the confirming authority, the privacy notifications should include reference to the [public register of compulsory purchase order decisions issued by the Secretary of State who has responsibility for housing and planning matters](#) in their role as the confirming authority and advise that decision letters and inspectors' reports may be published.
- 22.5 When submitting a compulsory purchase order for confirmation, acquiring authorities should confirm the relevant privacy notifications have been served.

23. Which parties should be notified of a compulsory purchase order?

- 23.1 The parties who must be notified of a compulsory purchase order are referred to as qualifying persons. A qualifying person includes:
- an owner
 - an occupier
 - a tenant (whatever the period of the tenancy)
 - a person to whom the acquiring authority would be required to give notice to treat if it was proceeding under [section 5\(1\) of the Compulsory Purchase Act 1965](#)
 - a person the acquiring authority thinks is likely to be entitled to make a claim for compensation under [section 10 of the Compulsory Purchase Act 1965](#) (compensation for injurious affection) if the order is confirmed and the compulsory purchase takes place, so far as they are known to the acquiring authority after making diligent inquiry; this relates mainly, but not exclusively, to easements and restrictive covenants
- 23.2 When serving notice of an order on qualifying persons, the acquiring authority is also expected to send to each one a copy of the authority's [statement of reasons](#) for making the order. A copy of this statement should also be sent, where appropriate, to any applicant for planning permission in respect of the land. This statement of reasons, although non-statutory, should be as comprehensive as possible.

- 23.3 When serving notice under on qualifying persons of a compulsory purchase order which includes a direction applying section 14A of the Land Compensation Act 1961, the notice must also contain specific information relating to the direction (see [How will landowners be notified of a compulsory purchase order which has been made with a direction applying section 14A of the Land Compensation Act 1961 included?](#)).
- 23.4 The general public will also be notified of a compulsory purchase order through newspaper notices, site notices, and notices published on a website which contains information about the scheme or project that underlies the proposed purchase. The notices will state where copies of the compulsory purchase order and map may be viewed online or at a physical location. For guidance on the disclosure of personal data associated with the publishing of a compulsory purchase order (see [How should acquiring authorities deal with any personal data collected in relation to a compulsory purchase order?](#)).

24. Can objections be made to a compulsory purchase order?

- 24.1 There are statutory requirements for compulsory purchase orders that are about to be submitted for confirmation to be advertised in newspapers, on a website which contains information about the scheme or project that underlies the proposed purchase and through site notices. These invite the submission of objections to the relevant confirming authority. Objections can be made by [owners, other qualifying persons](#) and third parties, including members of the public. Objections must arrive with the confirming authority within the period specified in the notice. This must be a minimum of 21 days. For further information on the requirements for grounds of objection and objectors' statements of case in relation to an inquiry see [What are the different types of objection?](#). It is important to make objections as relevant as possible to the matters which fall for consideration, in order for the objection to have an effect.
- 24.2 Under [rule 14 of the Compulsory Purchase \(Inquiries Procedure\) Rules 2007](#), third parties have no right to be heard at an inquiry, although the inspector may permit them to appear at the inspector's discretion (although permission is not to be unreasonably withheld).
- 24.3 Objections should be sent to the confirming department at the [address provided in Section 18 of this guidance](#).

25. Can acquiring authorities seek advice from the confirming department?

- 25.1 Acquiring authorities are expected to seek their own legal and professional advice when preparing and making compulsory purchase orders. Where an authority has taken advice but still retains doubts about particular technical points concerning the form of a proposed compulsory purchase order, it may seek informal written comments from the confirming department by submitting a draft for technical examination.

- 25.2 Experience suggests that technical examination by the confirming department can assist significantly in avoiding delays caused by drafting defects in orders submitted for confirmation. The role of the confirming department at this stage is confined to giving the draft compulsory purchase order a technical examination to check that it complies with the requirements on form and content in the statutes and the [Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) Regulations 2004 \(as amended\)](#)⁴, without prejudice to the consideration of its merits or demerits.

26. What documents should accompany a compulsory purchase order which is submitted for confirmation?

- 26.1 Below is a checklist of the documents to be submitted to the confirming authority with a compulsory purchase order:

- one copy of the sealed [compulsory purchase order](#) and two copies of the sealed map
- two copies each of the unsealed compulsory purchase order and unsealed map - follow the link for further guidance on [order maps](#)
- one copy of the [general certificate](#) in support of order submission including (where appropriate) confirmation that the proper notices have been correctly served in relation to: (a) an order made on behalf of a parish council; (b) Church of England property; or (c) a listed building in need of repair
- one copy of the [protected assets certificate](#) giving a nil return or a positive statement for each category of assets protection referred to in [What information needs to be included in a positive statement?](#) in section 16 (except for orders under section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990)
- two copies of the [statement of reasons](#) and, wherever practicable, any other documents referred to therein. A statement of reasons must include a statement concerning the planning permission (see [How does the acquiring authority address whether there are any other impediments to the scheme going ahead?](#))

Where a compulsory purchase order is made which includes a direction applying section 14A of the Land Compensation Act 1961, an additional document (a 'statement of commitments') must be submitted with the order (see [When may an acquiring authority seek to include direction in a compulsory purchase order for compensation to be assessed in accordance with section 14A of the Land Compensation Act 1961?](#)).

⁴ The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by [The Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) \(Amendment\) Regulations 2024](#)

26.2 Compulsory purchase orders for listed buildings in need of repair will also require:

- one copy of the repairs notice served in accordance with section 48, where the order is made under section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990) - follow the link for further information on [Compulsory purchase orders for listed buildings in need of repair](#)

Stage 4: Consideration of the compulsory purchase order

27. Who will take the decision to confirm or not a compulsory purchase order?

- 27.1 The 'confirming authority' under the Acquisition of Land Act 1981 is the minister having the power to authorise the acquiring authority to purchase the land compulsorily.
- 27.2 However, under [section 14D of the Acquisition of Land Act 1981](#)⁵ a confirming authority can appoint an inspector to act instead of it in relation to the confirmation of a compulsory purchase order to which section 13A of the Acquisition of Land Act 1981 applies (i.e. a non-ministerial order where there is a remaining objection).
- 27.3 Where the Secretary of State who has responsibility for housing and planning matters is the confirming authority for such an order, they will carefully consider the suitability of 'delegating' the confirmation decision to an inspector in line with the criteria set out in this guidance. The Secretary of State will assess the suitability of each compulsory purchase order for delegation on its individual merits.

28. What criteria will the Secretary of State consider in deciding whether to delegate a decision on a compulsory purchase order?

- 28.1 The Secretary of State who has responsibility for housing and planning matters in their role as the confirming authority will carefully consider the suitability of all compulsory purchase orders to be delegated to an inspector but will generally delegate the decision on confirmation of a compulsory purchase order where, in their opinion, it appears unlikely to:
- conflict with national policies on important matters
 - raise novel issues
 - give rise to significant controversy
 - have impacts which extend beyond the local area

The Secretary of State will assess the suitability of each compulsory purchase order for delegation on its individual merits.

⁵ The power to delegate a decision on a compulsory purchase order to an inspector was inserted by section 181 of the Housing and Planning Act 2016 and applies to compulsory purchase orders submitted to a confirming authority for confirmation on or after 6 April 2018.

29. If a compulsory purchase order is delegated to an inspector and new issues/evidence emerge, can the Secretary of State revisit their decision to appoint an inspector to take the confirmation decision?

- 29.1 [Section 14D of the Acquisition of Land Act 1981](#) enables a confirming authority to cancel the appointment of an inspector acting instead of it in relation to the confirmation of a compulsory purchase order. The appointment may be cancelled at any time before the inspector has made the confirmation decision.
- 29.2 While each compulsory purchase order will be considered on its individual merits, if, at any time until a decision is made by the appointed inspector, the Secretary of State who has responsibility for housing and planning matters considers that the compulsory purchase order now raises issues which should be considered by them in their role as the confirming authority, the Secretary of State may decide that the appointment of the inspector should be cancelled. In this instance, the inspector will be asked to submit a report and recommendation to the Secretary of State who has responsibility for housing and planning matters who will make the confirmation decision in their role as the confirming authority.
- 29.3 If the Secretary of State who has responsibility for housing and planning matters in their role as the confirming authority decides to cancel the appointment of an inspector (and does not appoint another inspector to take the decision instead), they must give its reasons for doing so to the inspector, acquiring authority and every person who has made a remaining objection (see [section 14D\(7\) of the Acquisition of Land Act 1981](#)).

30. What happens if no objections are made?

- 30.1 If no objections are made to a compulsory purchase order and the confirming authority is satisfied that the proper procedure for serving and publishing notices has been observed, they will consider the case on its merits. The confirming authority can then confirm, modify or reject the compulsory purchase order without the need for any form of hearing. If the order can be confirmed without modification and does not include statutory undertakers' land or special kinds of land or a direction which applies section 14A of the Land Compensation Act 1961, the confirming authority may remit the case back to the acquiring authority for confirmation using the power under [section 14A of the Acquisition of Land Act 1981](#). (See [Can the confirming authority modify an order?](#) for more information.)

31. What happens if there are objections and these are not withdrawn?

- 31.1 If objections are received and not withdrawn, the confirming authority will either arrange for a public local inquiry to be held or – where all the remaining objectors and the acquiring authority agree to it – arrange for the objections to be considered through the written representations procedure.

32. What are the different types of objection?

- 32.1 A 'relevant objection' is one made by a person who is an owner, lessee, tenant or occupier of the land or a person to whom the acquiring authority would be required to give a notice to treat.
- 32.2 It may also be an objection made by a person who might be able to make a claim for injurious affection under [section 10 of the Compulsory Purchase Act 1965](#), but only if the acquiring authority think that the person is likely to be entitled to make such a claim if the order is confirmed and the compulsory purchase takes place, so far as that person is known to the acquiring authority after making diligent inquiry.
- 32.3 A 'remaining objection' is a relevant objection that has not been withdrawn or disregarded (for example because it relates solely to compensation).
- 32.4 Other objections can be made by persons who are not a relevant objector, for example, by a third party, community group or special interest organisation.

33. Does an objection need to be in writing?

- 33.1 [Section 13\(3\) of the Acquisition of Land Act 1981](#) enables the confirming authority to require every person who makes a relevant objection to state the grounds of objection in writing.

34. When might an objector's statement of case be required?

- 34.1 A confirming authority can also require remaining objectors, and others who intend to appear at inquiry, to provide a statement of case. This is a useful device for minimising the need to adjourn inquiries as a result of new information. This is most likely where commercial concerns are objecting to large or complex schemes. Under [Rule 7\(5\) of the Compulsory Purchase \(Inquiries Procedure\) Rules 2007](#), a person may be required to provide further information about matters contained in any such statement of case.
- 34.2 Objectors may wish to prepare a statement of case even when not asked to do so because it may be helpful for themselves and the inquiry.

35. How are objections considered?

- 35.1 Although all remaining objectors have a right to be heard at an inquiry, acquiring authorities are encouraged to continue to engage with both remaining and other objectors after submitting an order for confirmation, with a view to securing the withdrawal of objections. In line with the advice on [alternative dispute resolution](#), this should include employing such alternative dispute resolution techniques as may be agreed between the parties.
- 35.2 [The Compulsory Purchase of Land \(Written Representations Procedure\) \(Ministers\) Regulations 2004](#) prescribe a procedure by which objections to an order can be considered in writing if all the remaining objectors agree and the confirming authority deems it appropriate, as an alternative to holding an inquiry.

In summary, these regulations provide that, once the confirming authority has indicated that the written representations procedure will be followed, the acquiring authority have 15 working days to make additional representations in support of the case it has already made for the order in its statement of reasons. Once these representations have been copied to the objectors, they will also have 15 working days to make representations to the confirming authority. These in turn are copied to the acquiring authority who then has a final opportunity to comment on the objectors' representations but cannot raise new issues.

- 35.3 For compulsory purchase orders made under [housing](#) and [planning](#) compulsory purchase powers, the written representations procedure will be offered to objectors except where it is clear from the outset that the scale or complexity of the order makes it unlikely that the procedure would be acceptable or appropriate. In such cases an inquiry will be called in the normal way. The practice for considering compulsory purchase orders made under other compulsory purchase powers may vary.

36. What procedures are followed for inquiries into compulsory purchase orders under Acquisition of Land Act 1981?

- 36.1 The [Compulsory Purchase \(Inquiries Procedure\) Rules 2007](#)⁶ ('2007 Rules') apply all inquiries into compulsory purchase orders made under the Acquisition of Land Act 1981, both ministerial and non-ministerial, and to compulsory rights orders.

37. What information should an acquiring authority's statement of case, required to be submitted under the Compulsory Purchase (Inquiries Procedure) Rules 2007, contain?

- 37.1 It should be possible for the acquiring authority to use the non-statutory [statement of reasons](#) as the basis for the statement of case which is required to be served under the [Compulsory Purchase \(Inquiries Procedure\) Rules 2007](#) where an inquiry is to be held. The acquiring authority's statement of case should set out a detailed response to the objections made to the compulsory purchase order.

38. What supplementary information may be required?

- 38.1 When considering the acquiring authority's order submission, the confirming department may, if necessary, request clarification of particular points. These may arise both before the inquiry has been held or after the inquiry.
- 38.2 Such clarification will often relate to statutory procedural matters, such as confirmation that the authority has complied with the requirements relating to the [service of notices](#). This information may be needed before the inquiry can be arranged. But it may also relate to matters raised by objectors, such as the ability of the authority or a developer to meet development costs.

⁶ The Compulsory Purchase (Inquiries Procedure) Rules 2007 were amended by the [Compulsory Purchase \(Inquiries Procedure\) \(Miscellaneous Amendments and Electronic Communications\) Rules 2018](#) with effect from 6 April 2018

- 38.3 Where further information is needed, the confirming authority will write to the acquiring authority setting out the points of difficulty and the further information or statutory action required. The confirming authority will copy its side of any such correspondence to remaining objectors, and requests that the acquiring authority should do the same.

39. Should a programme officer be appointed?

- 39.1 Acquiring authorities may wish to consider appointing a programme officer to assist the inspector in organising administrative arrangements for larger compulsory purchase order inquiries. A programme officer might undertake tasks such as assisting with preparing and running of any pre-inquiry meetings, preparing a draft programme for the inquiry, managing the public inquiry document library and, if requested by the inspector, arranging accompanied site inspections. A programme officer would also be able to respond to enquiries about the running of the inquiry during its course.

40. When will an inquiry be held?

- 40.1 Practice may vary between departments but, once the need for an inquiry has been established, it will normally be arranged by the Planning Inspectorate in consultation with the acquiring authority for the earliest date on which an appropriate inspector is available. Having regard to the minimum time required to check the orders and arrange the inquiry, this will typically be held around six months after submission. It is important to ensure that adequate notification is given to objectors of the inquiry dates, so that they have sufficient time to prepare evidence for the inquiry. This will also assist in the efficient conduct of the inquiry.
- 40.2 Once the date of the inquiry has been fixed it will be changed only for exceptional reasons. A confirming department will not normally agree to cancel an inquiry unless all statutory objectors withdraw their objections or the acquiring authority indicates formally that it no longer wishes to pursue the order, in sufficient time for notice of cancellation of the inquiry to be published. As a general rule, the inquiry date will not be changed because the authority or an objector needs more time to prepare its evidence.
- 40.3 The authority should have prepared its case sufficiently rigorously before making the order to make such a postponement unnecessary. An inquiry date would not normally be changed because a particular advocate is unavailable on the specified date.

41. What scope is there for joint or concurrent inquiries?

- 41.1 It is important to identify at the earliest possible stage any application or appeal associated with, or related to, the order which may require approval or decision. This is to allow the appropriateness of arranging a joint inquiry or concurrent inquiries to be considered. Such actions might include, for example, an application for an order stopping up a public highway (when it is to be determined at a ministerial level) or an appeal against the refusal of planning permission.

- 41.2 Any such arrangements cannot be settled until the full range of proposals and the objections or grounds of appeal are known. The acquiring authority should ensure that any relevant statutory procedures for which it is responsible (including actually making the relevant compulsory purchase order) are carried out at the right time to enable any related applications or appeals to be processed in step.

42. What advice is available about costs awards?

- 42.1 Advice on the inquiry costs for statutory objectors is given in [Award of costs incurred in planning and other proceedings](#). The principles of this advice also apply to written representations procedure costs.
- 42.2 When notifying successful objectors of the decision on the order under the [Compulsory Purchase \(Inquiries Procedure\) Rules 2007](#) or the [Compulsory Purchase of Land \(Written Representations Procedure\)\(Ministers\) Regulations 2004](#), the confirming authority will tell them that they may be entitled to claim inquiry or written representations procedure costs and invite them to submit an application for an award of costs.

43. Are acquiring authorities normally required to meet the costs associated with an inquiry or written representations?

- 43.1 Acquiring authorities will be required to meet the administrative costs of an inquiry and the expenses incurred by the inspector in holding it. Likewise, the acquiring authority will be required to meet the inspector's costs associated with the consideration of written representations. Other administrative costs associated with the written representations procedure are, however, likely to be minor, and the confirming authority will decide on a case by case basis whether or not to recoup them from the acquiring authority under [section 13B of the Acquisition of Land Act 1981](#). The daily amount of costs which may be recovered where an inquiry is held to which [section 250\(4\) of the Local Government Act 1972](#) applies, or where the written representations procedure is used, is £630 per day as prescribed in [The Fees for Inquiries \(Standard Daily Amount\) \(England\) Regulations 2000](#).
- 43.2 Further information on the award of costs is available in planning guidance: [Award of costs incurred in planning and other proceedings](#).

44. What happens if there are legal difficulties with an order?

- 44.1 Whilst only the courts can rule on the validity of a compulsory purchase order, the confirming authority would not think it right to confirm an order if it appeared to be invalid, even if there had been no objections to it. Where this is the case, the confirming authority will issue a formal, reasoned decision refusing to confirm the order. The decision letter will be copied to all those who were entitled to be served with notice of the making and effect of the order and to any other person who made a representation.

45. Can the confirming authority modify an order?

- 45.1 The confirming authority may confirm a compulsory purchase order with or without modifications. [Section 14 of the Acquisition of Land Act 1981](#) imposes limitations on the confirming authority's power to modify the order. This provides that a compulsory purchase order can only be modified to include any additional land if all the people who are affected give their consent.
- 45.2 There is no scope for the confirming authority to add to, or substitute, the statutory purpose (or purposes) for which the order was made. The power of modification is used sparingly and not to rewrite orders extensively. While some minor slips can be corrected, there is no need to modify an order solely to show a change of ownership where the acquiring authority has acquired a relevant interest or interests after submitting the order.
- 45.3 If it becomes apparent to an acquiring authority that it may wish the confirming authority to substantially amend the order by modification at the time of any confirmation, the authority should write as soon as possible, setting out the proposed modification.
- 45.4 This letter should be copied to each remaining objector, any other person who may be entitled to appear at the inquiry (such as any person required by the confirming authority to provide a statement of case) and to any other interested persons who seem to be directly affected by the matters that might be subject to modification. Where such potential modifications have been identified before the inquiry is held, the inspector will normally wish to provide an opportunity for them to be debated.
- 45.5 The confirming authority also has a specific power to modify a compulsory purchase order which includes a direction applying section 14A of the Land Compensation Act 1961 (see [How will the confirming authority consider a compulsory purchase order which is made with a direction applying section 14A of the Land Compensation Act 1961 included?](#)).
- 45.6 Where the confirming authority exercises the power under [section 13D of the Acquisition of Land Act 1981](#) to extend the time limit for the implementation of a compulsory purchase order, the confirming authority will modify the order by specifying a new time limit for its implementation.

46. Can a compulsory purchase order be confirmed in stages?

- 46.1 In cases where the Acquisition of Land Act 1981 applies to a compulsory purchase order, [section 13C of that Act](#) provides a general power for the order to be confirmed in stages, at the discretion of the confirming authority. This power is intended to make it possible for part of a scheme to be able to proceed earlier than might otherwise be the case, although its practical application is likely to be limited. It is not a device to enable the land required for more than one project or scheme to be included in a single order.

- 46.2 The decision to confirm in part must be accompanied by a direction postponing consideration of the remaining part until a specified date. The notices of confirmation of the confirmed part of the order must include a statement indicating the effect of that direction and be published, displayed and served in accordance with [section 15 of the Acquisition of Land Act 1981](#).

47. When might an order be confirmed in stages?

- 47.1 The power to confirm an order in stages may be used when the confirming authority is satisfied that a compulsory purchase order should be confirmed for part of the land covered by the order but is not yet able to decide whether the order should be confirmed in relation to other parts of the order land. This could be, for example, because further investigations are required to establish the extent, if any, of alleged contaminated land. Where an order is confirmed in part under this power, the remaining undecided part is then treated as if it were a separate order.
- 47.2 To confirm in part, the confirming authority will need to be satisfied that:
- the proposed scheme or schemes underlying the need for the order can be independently implemented over that part of the order land to be confirmed, regardless of whether the remainder of the order is ever confirmed
 - the statutory requirements for the service and publication of notices have been followed
 - there are no remaining objections relating to the part to be confirmed (if the confirming authority wishes to confirm part of an order prior to holding a public inquiry or following the written representations procedure)
- 47.3 If the confirming authority were to be satisfied on the basis of the evidence already available to them that a part of the order land should be excluded, they may exercise their discretion to refuse to confirm the order or, in confirming the order, they may modify it to exclude the areas of uncertainty.

48. When can a compulsory purchase order be confirmed by the acquiring authority?

- 48.1 [Section 14A of the Acquisition of Land Act 1981](#) provides a discretionary power for a confirming authority to give the acquiring authority responsibility for deciding an order which has been submitted for confirmation if certain specified conditions are met. The confirming authority must be satisfied that:
- there are no outstanding objections to the order
 - all the statutory requirements as to the service and publication of notices have been complied with
 - the order is capable of being confirmed without modification

The power of the confirming authority to issue such notice is excluded in cases where:

- the land to be acquired includes land acquired by a statutory undertaker for the purposes of its undertaking, that statutory undertaker has made representations to the minister responsible for sponsoring its business and the confirming authority is satisfied that the land to be taken is used for the purposes of the undertaking
- the land to be acquired forms part of a common, open space, or fuel or field garden allotment

as confirmation of an order in these circumstances is contingent on other ministerial decisions.

48.2 The power of the confirming authority to issue such notice is also excluded where an acquiring authority has made a compulsory purchase order which includes a direction applying section 14A of the Land Compensation Act 1961 (see [Can an acquiring authority confirm its own compulsory purchase order if it includes a direction applying section 14A of the Land Compensation Act 1961?](#)). .

48.3 The acquiring authority's power to confirm a compulsory purchase order does not extend to being able to modify the order or to confirm the order in stages. If the acquiring authority considers there is a need for a modification, for example, to rectify drafting errors, it will have to ask the confirming authority to revoke the notice given under these provisions.

49. What should the confirming authority do if it decides to give an acquiring authority the power to confirm a compulsory purchase order?

49.1 To exercise its discretionary power under [section 14A of the Acquisition of Land Act 1981](#), the confirming authority serves a notice on the acquiring authority giving it the power to confirm the compulsory purchase order. The sealed order and one sealed map (or sets of sealed maps) will be returned with the notice. The notice should:

- indicate that if the acquiring authority decides to confirm the order, it should be endorsed as confirmed with the endorsement authenticated by a person having authority to do so
- suggest a form of words for the endorsement
- refer to the statutory requirement to serve notice of confirmation under [section 15 of the Acquisition of Land Act 1981](#)
- require that the confirming authority should be informed of the decision on the order as soon as possible with (where applicable) a copy of the endorsed order

50. What should the acquiring authority do if it decides to confirm its own order?

- 50.1 If the acquiring authority decides to confirm its own order, it should return the notice of confirmation to the confirming authority. The form of the notice of confirmation is set out in [Form 11 in the Schedule to the Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) Regulations 2004 \(as amended\)](#)⁷.
- 50.2 An acquiring authority exercising the power to confirm must notify the confirming authority as soon as reasonably practicable of its decision. Until such notification is received, the confirming authority can revoke the acquiring authority's power to confirm. This might be necessary, for example, if the confirming authority received a late objection which raised important issues, or if the acquiring authority were to fail to decide whether to confirm within a reasonable timescale.
- 50.3 Acquiring authorities are asked to ensure that in all cases the confirming department is notified without delay of the date when notice of confirmation of the order is first published in the press in accordance with the provisions of the [Acquisition of Land Act 1981](#).
- 50.4 This is important as the six weeks' period allowed by virtue of [section 23 of the Acquisition of Land Act 1981](#) for an application to the High Court to be made begins on this date. Similarly, and for the same reason, where the Secretary of State has given a certificate under section 19 of, or paragraph 6 of Schedule 3 to, the Acquisition of Land Act 1981, the department giving the certificate should be notified straight away of the date when notice is first published.

51. Are there timetables for confirmation of compulsory purchase orders?

- 51.1 [Section 14B of the Acquisition of Land Act 1981](#)⁸ requires the Secretary of State to publish one or more timetables for confirmation of compulsory purchase orders. The timescales are set out in the paragraphs which follow. The target timescales will apply to all confirming authorities other than the Welsh Ministers (who have the power to publish their own timetables under [section 14C of the Acquisition of Land Act 1981](#) in relation to compulsory purchase orders to be confirmed by them).

⁷ The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by [The Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) \(Amendment\) Regulations 2024](#)

⁸ The requirement for the Secretary of State to publish one or more timetables setting out the steps to be taken by confirming authorities in confirming a compulsory purchase order was inserted by section 180 of the Housing and Planning Act 2016 and applies to compulsory purchase orders which are submitted to a confirming authority for confirmation on or after 6 April 2018.

52. How long will it take to get a decision on a compulsory purchase order which is delegated to an inspector and subject to the written representation process?

- 52.1 Where a compulsory purchase order is delegated to an inspector and subject to the written representation procedure, there is a statutory requirement for a site visit, where necessary, to be conducted within 15 weeks of the starting date letter (see regulation 8(1) of the Compulsory Purchase of Land (Written Representations Procedure) (Ministers) Regulations 2004 as amended by the [Compulsory Purchase of Land \(Written Representations Procedure\) \(Ministers\) \(Miscellaneous Amendments and Electronic Communications\) Regulations 2018](#)).
- 52.2 A decision should be issued within 4 weeks of the site visit date in 80% of cases delegated by the Secretary of State in their role as the confirming authority; with 100% of cases being decided within 8 weeks of the site visit date.
- 52.3 In cases where there has not been a site visit, the timescales for decision will be taken from the final exchange of representations under [regulation 5 of the Compulsory Purchase of Land \(Written Representations Procedure\) \(Ministers\) Regulations 2004](#).

53. How long will it take to get a decision on a compulsory purchase order which is delegated to an inspector and subject to the public inquiry procedure?

- 53.1 Where a compulsory purchase order is delegated to an inspector and subject to the public inquiry procedure, the parties will be notified within 10 working days beginning with the day after the inquiry closes of the expected date on which a decision will be issued (see the modified version of rule 18 in Schedule 1 to the Compulsory Purchase (Inquiries Procedure) Rules 2007 as amended by the [Compulsory Purchase \(Inquiries Procedure\) \(Miscellaneous Amendments and Electronic Communications\) Rules 2018](#)).
- 53.2 A decision on the compulsory purchase order should be issued by the inspector within 8 weeks of the close of the Inquiry in 80% of cases delegated by the Secretary of State in their role as the confirming authority; with 100% of cases being decided within 12 weeks.

54. How long will it take to get a decision on a compulsory purchase order which is decided by a Secretary of State in their role as the confirming authority and subject to the written representation process?

- 54.1 Where a compulsory purchase order is subject to the written representation procedure, there is a statutory requirement for a site visit, where necessary, to be conducted within 15 weeks of the starting date letter (see regulation 8(1) of the Compulsory Purchase of Land (Written Representations Procedure) (Ministers) Regulations 2004 as amended by the [Compulsory Purchase of Land \(Written Representations Procedure\) \(Ministers\) \(Miscellaneous Amendments and Electronic Communications\) Regulations 2018](#)).

54.2 The Secretary of State in their role as the confirming authority should issue 80% of compulsory purchase decisions on written representation cases within 8 weeks of the site visit. The remaining 20% of cases should be decided within 12 weeks of the site visit.

54.3 In cases where there has not been a site visit, the timescales for decision will be taken from the final exchange of representations under [regulation 5 of the Compulsory Purchase of Land \(Written Representations Procedure\) \(Ministers\) Regulations 2004](#).

55. How long will it take to get a decision on a compulsory purchase order which is decided by a Secretary of State in their role as the confirming authority and subject to the public inquiry process?

55.1 Where a compulsory purchase order is to be decided by the Secretary of State in their role as the confirming authority and subject to the public inquiry procedure, the parties will be notified within 10 working days beginning with the day after the inquiry closes of the expected date of the Secretary of State's decision (see rule 18(A1) of the Compulsory Purchase (Inquiries Procedure) Rules 2007 as amended by the [Compulsory Purchase \(Inquiries Procedure\) \(Miscellaneous Amendments and Electronic Communications\) Rules 2018](#)).

55.2 In addition, there is a target that 80% of cases should be decided by the relevant Secretary of State in their role as the confirming authority within 20 weeks of the close of the public inquiry – with the remaining cases decided within 24 weeks.

56. What happens if the Secretary of State in their role as the confirming authority or an inspector fails to issue a decision in accordance with the published timescales?

56.1 The Secretary of State who has responsibility for housing and planning matters must issue an annual report to Parliament showing the extent to which confirming authorities have complied with the published timescales.

56.2 The validity of a compulsory purchase order is not, however, affected by any failure to comply with a timetable (see [section 14B\(4\) of the Acquisition of Land Act 1981](#)).

57. Can a compulsory purchase order be challenged through the courts after it has been confirmed?

57.1 Any person aggrieved who wishes to dispute the validity of a compulsory purchase order, or any of its provisions, can challenge the order through an application to the High Court under [section 23 of the Acquisition of Land Act 1981](#) on the grounds that:

- the authorisation of the order is not empowered to be granted under the Acquisition of Land Act 1981 or an enactment mentioned in section 1(1) of that Act
- a 'relevant requirement' has not been complied with

- 57.2 A 'relevant requirement' is any requirement under the Acquisition of Land Act 1981, of any regulations made under it, or the Tribunals and Inquiries Act 1992 or of regulations made under that act.
- 57.3 Any such application must be made within 6 weeks of the date specified in [section 23\(4\) of the Acquisition of Land Act 1981](#).

58. What powers does the court have on an application under section 23 of the Acquisition of Land Act 1981?

- 58.1 [Section 24 of the Acquisition of Land Act 1981](#) sets out the powers of the court on an application under section 23 of the Acquisition of Land Act 1981. First, the court has the discretionary power to grant interim relief suspending the operation of the order or certificate pending the final determination of the court proceedings (section 24(1)). Second, where a challenge under section 23 of the Acquisition of Land Act 1981 is successful, the court has the discretionary power to quash:
- the decision to confirm the compulsory purchase order ([section 24\(3\)](#)) (NB: this does not apply in relation to an application under section 23 which was made before 13 July 2016)
 - the whole or any part of an order ([section 24\(2\)](#))

59. Is the time period for implementing a compulsory purchase order extended where it is the subject of a legal challenge?

- 59.1 Under [section 4A of the Compulsory Purchase Act 1965](#) (for notice to treat process) and [section 5B of the Compulsory Purchase \(Vesting Declarations\) Act 1981](#) (for general vesting declaration process) the applicable period for implementing a compulsory purchase order is extended for:
- a period equivalent to the period from the date an application challenging the order is made until it is withdrawn or finally determined
 - one year

whichever is the shorter. NB: The extended time period does not apply to an application made in respect of a compulsory purchase order which became operative before 13 July 2016.

- 59.2 An application to challenge an order is finally determined after the normal time for submitting an appeal has elapsed or, where an appeal has been submitted, it is either withdrawn or finally determined.

60. Can a decision not to confirm a compulsory purchase order be challenged through the courts?

- 60.1 A decision not to confirm a compulsory purchase order can be challenged through the courts by means of an application for judicial review under [Part 54 of the Civil Procedure Rules 1998](#).

61. Is there a record of compulsory purchase orders decisions?

- 61.1 A public register of compulsory purchase order decisions for cases which the Secretary of State who has responsibility for housing and planning matters is the confirming authority for is maintained on our website at:
<https://www.gov.uk/government/publications/compulsory-purchase-orders-register-of-decisions>

Stage 5: Implementing a compulsory purchase order

62. When does a compulsory purchase order become operative?

- 62.1 Unless the acquisition is subject to the special parliamentary procedure (for example, in the case of certain [special kinds of land](#)), a compulsory purchase order which has been confirmed becomes operative on the date on which the notice of its confirmation is first published.
- 62.2 The method of publication and the information which must be included in a notice is set out in [section 15 of the Acquisition of Land Act 1981](#). Confirmation notices must also:
- contain a prescribed statement about the effect of Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981 set out in [Form 9A in the Schedule to the Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) Regulations 2004 \(as amended\)](#)⁹
 - invite any person who would be entitled to claim compensation if a declaration were executed under section 4 of that Act to give the acquiring authority information about the person's name, address and interest in land, using a prescribed form which is set out in [Form 10](#) (where confirmation of the compulsory purchase order is not undertaken by the acquiring authority) or [Form 11](#) (where confirmation of the compulsory purchase order is undertaken by the acquiring authority) in the Schedule to the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (as amended)¹⁰
- 62.3 Where a compulsory purchase order which includes a direction applying section 14A of the Land Compensation Act 1961 is confirmed, additional information must be included in the confirmation notice (see [How will landowners be notified of a compulsory purchase order which has been confirmed with a direction applying section 14A of the Land Compensation Act 1961 included?](#)).
- 62.4 Acquiring authorities must issue the confirmation notice within 6 weeks of the date of the order being confirmed or such longer period as may be agreed between the acquiring authority and the confirming authority ([section 15\(3A\) of the Acquisition of Land Act 1981](#)). Where an acquiring authority fails to do so, the confirming authority may take the necessary steps itself and recover its reasonable costs of doing so from the acquiring authority.
- 62.5 The acquiring authority may then exercise the compulsory purchase power (unless the operation of the compulsory purchase order is suspended by the High Court). The actual acquisition process will proceed by one of two routes - either by the acquiring authority serving a notice to treat or by executing a general vesting declaration.

⁹ The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by [The Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) \(Amendment\) Regulations 2024](#)

¹⁰ The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by [The Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) \(Amendment\) Regulations 2024](#)

63. How do I register a confirmation notice as a local land charge?

- 63.1 Section [15\(6\) of the Acquisition of Land Act 1981](#) provides that a confirmation notice should be sent by the acquiring authority to the Chief Land Registrar and that it shall be a local land charge. Where land in the order is situated in an area for which the local authority remains the registering authority for local land charges (i.e. where the changes made by [Parts 1 and 3 of Schedule 5 to the Infrastructure Act 2015](#) have not yet taken effect in that local authority area), the acquiring authority should comply with the steps required by [section 5 of the Local Land Charges Act 1975](#) (prior to it being amended by the Infrastructure Act 2015) to ensure that the charge is registered.

64. What is a notice to treat?

- 64.1 There is no prescribed form for a notice to treat but the document must:
- describe the land to which it relates
 - demand particulars of the interest in the land
 - demand particulars of the compensation claim of the recipient
 - state that the acquiring authority is willing to treat for the purchase of the land and for compensation for any damage caused by the execution of the works
- 64.2 Possession cannot normally be taken until the acquiring authority has served a notice of entry and the minimum period specified in that notice has expired.
- 64.3 Title to the land is subsequently transferred by a normal conveyance.

65. When should a notice to treat be served?

- 65.1 A notice to treat may not be served after the end of the period of three years beginning with the date on which the compulsory purchase order becomes operative, under [section 4 of the Compulsory Purchase Act 1965](#) unless that time limit is extended by the confirming authority under section 13D of the Acquisition of Land Act 1981. The notice to treat then remains effective for a further three years under [section 5\(2A\) of that Act](#).
- 65.2 It can be very stressful for those directly affected to know that a compulsory purchase order has been confirmed on their property. The prospect of a period of up to six years (and possibly longer where the time limit is extended by the confirming authority under [section 13D of the Acquisition of Land Act 1981](#)) before the acquiring authority actually takes possession can be daunting. Acquiring authorities are therefore urged to keep such people fully informed about the various processes involved and of their likely timing, as well as keeping open the possibility of earlier acquisition where requested by an owner.

66. What period of notice should be given before taking possession under the notice to treat process?

- 66.1 Once the crucial stage of actually taking possession is reached, the acquiring authority is required by [section 11 of the Compulsory Purchase Act 1965](#) ("the 1965 Act") to serve a notice of its intention to gain entry. In respect of a compulsory purchase order which is confirmed on or after 3 February 2017, the notice period will be not less than 3 months beginning with the date of service of the notice, except in either of the following circumstances:
- where it is a notice to which section 11A(4) of the 1965 Act applies (i.e. where it is being served on a 'newly identified person' under section 11A(1)(b) and that person is not an occupier, or the acquiring authority was unaware of the person because they received misleading information in response to their inquiries under section 5(1) of the 1965 Act) - in these circumstances, section 11A(4) provides for a shorter minimum notice period
 - where it is a notice to which paragraph 13 of Schedule 2A to the 1965 Act applies (i.e. where under the material detriment provisions in that schedule, an acquiring authority is permitted to serve a further notice of entry, after the initial notice of entry ceased to have effect under paragraph 6, in respect of the land proposed to be acquired)
- 66.2 Although it is necessary for a notice to treat to have been served, this can be done at the same time as serving the notice of entry. A notice of entry cannot be served after a notice to treat has ceased to be effective. A notice to treat can only be withdrawn in limited circumstances.
- 66.3 Acquiring authorities are encouraged to negotiate a mutually convenient date of entry with the claimant. It is good practice for the acquiring authority to:
- give owners and occupiers (where appropriate) an indication of the approximate date when possession will be taken when serving the notice to treat
 - consider the steps which those being dispossessed will need to take to vacate their properties before deciding on the timing of actually taking possession
- 66.4 Authorities should also be aware that:
- agricultural landowners or tenants may need to know the date for the notice of entry earlier than others because of crop cycles and the need to find alternative premises
 - short notice often results in higher compensation claims

- until there is an actual or deemed notice to treat an occupier is at risk that any costs they incur in anticipation of receiving such a notice may not be claimable; acquiring authorities would be advised to analyse how long it will take most occupiers to relocate and if the notice of entry is inadequate then they should consider giving an earlier commitment to pay certain costs such as their reasonable costs in identifying suitable alternative accommodation

66.5 It is usually important to make an accurate record of the physical condition of the land at the valuation date.

67. What happens if the acquiring authority does not take possession at the time specified in the notice of entry?

67.1 Where a compulsory purchase of land has been authorised on or after 3 February 2017 (i.e. where the order was confirmed on or after that date), [section 11B of the Compulsory Purchase Act 1965](#) allows occupiers with an interest in the land to serve a counter-notice on an acquiring authority to require entry on a specified date which must not be earlier than the date specified in the notice of entry. The occupier must give at least 28 days notice of the date they want entry to be taken.

68. What is a general vesting declaration?

68.1 A general vesting declaration can be used as an alternative to the notice to treat procedure. It replaces the notice to treat, notice of entry and the conveyance with one procedure which automatically vests title in the land with the acquiring authority on a certain date.

68.2 General vesting declarations are made under the [Compulsory Purchase \(Vesting Declarations\) Act 1981](#) and in accordance with the [Compulsory Purchase of Land \(Vesting Declarations\) \(England\) Regulations 2017](#).

69. When might a general vesting declaration be used?

69.1 An acquiring authority may prefer to proceed by general vesting declaration as this enables the authority to obtain title to the land without having first to be satisfied as to the vendor's title or to settle the amount of compensation (subject to any special procedures such as in relation to purchase of commoners' rights: see [section 21 of](#), and [Schedule 4 to, Compulsory Purchase Act 1965](#)). It can therefore be particularly useful where:

- some of the owners are unknown
- the authority wishes to obtain title with minimum delay (for example, to dispose of the land to developers)

69.2 A general vesting declaration may be made for any part or all of the land included in the compulsory purchase order except where an acquiring authority has already served (and not withdrawn) a notice to treat in respect of that land.

- 69.3 [Section 4\(1B\) of the Compulsory Purchase \(Vesting Declarations\) Act 1981](#) makes clear that the above exception does not apply to deemed notices to treat that may, for example, arise from a blight notice or purchase notice.
- 69.4 For minor tenancies and long tenancies which are about to expire, a general vesting declaration will also not be effective. However, there is a special procedure set out in [section 9 of the Compulsory Purchase \(Vesting Declarations\) Act 1981](#) for dealing with them.
- 69.5 Where unregistered land is acquired by general vesting declaration, acquiring authorities are recommended to voluntarily apply for first registration under [section 3 of the Land Registration Act 2002](#).

70. When should a general vesting declaration be served?

- 70.1 For compulsory purchase orders which become operative on or after 13 July 2016, [section 5A of the Compulsory Purchase \(Vesting Declarations\) Act 1981](#) makes clear that a general vesting declaration may not be executed after the end of the period of 3 years beginning with the day on which the compulsory purchase order becomes operative or such longer period as extended by the confirming authority under [section 13D of the Acquisition of Land Act 1981](#).

71. What period of notice should be given before taking possession under the general vesting declaration process?

- 71.1 For a compulsory purchase of land authorised on or after 3 February 2017, the acquiring authority must give at least three months' notice before taking possession (as this is the minimum vesting period which must be given in a general vesting declaration under [section 4\(1\) of the Compulsory Purchase \(Vesting Declarations\) Act 1981](#)). Acquiring authorities should consider how long it will take occupiers to reasonably relocate and if 3 months is considered insufficient, consider increasing the vesting period (and therefore the notice period). Acquiring authorities and the owner of the relevant interest may postpone the vesting of the interest in the acquiring authority by written agreement and agree a different vesting date under [section 8A of the Compulsory Purchase \(Vesting Declarations\) Act 1981](#).

72. How does the acquiring authority make a general vesting declaration if the owner, lessee or occupier is unknown?

- 72.1 If it is not possible (after reasonable enquiry) to ascertain the name or address of an owner, lessee or occupier of land, the acquiring authority should comply with section 329(2) of the Town and Country Planning Act 1990 to serve notice after execution of the declaration (required under [section 6 of the Compulsory Purchase \(Vesting Declarations\) Act 1981](#)).

73. How can Charity Trustees convey land to a public authority?

- 73.1 If acquiring land from a charity, acquiring authorities should be aware of the provisions in [Part 7 of the Charities Act 2011](#) and may need to consult the Charity Commission.

Stage 6: Compensation

74. What is the basis of compensation?

- 74.1 The rights to compensation for those affected by compulsory purchase – and the procedures for assessing the correct amount – are governed by a combination of legislation, case law and established practice. These are sometimes referred to collectively as the ‘compensation code’. However, there is no single, published document called the compensation code.
- 74.2 The overriding general principle of compulsory purchase compensation under the compensation code is the ‘equivalence principle’. This is the principle that a person who has an interest in land acquired compulsorily should be paid neither less nor more than the value of their loss other than where:
- (a) a compulsory purchase order is confirmed with a direction for minimum compensation included where an owner of a listed building has deliberately allowed the building to fall into disrepair to justify its demolition and the development of the site (see [What if the owner has deliberately allowed the listed building to fall into disrepair to justify its demolition?](#))
 - (b) a compulsory purchase order is confirmed with a direction applying section 14A of the Land Compensation Act 1961 included (see [Section 27: Compulsory purchase orders which include directions to remove the prospects of planning permission from the assessment of compensation](#))

75. What are the elements of compensation where land is taken?

- 75.1 The compensation payable where land is taken is a single global figure, and in practice, the assessment of that compensation will involve various elements.
- 75.2 Broadly, the elements of compensation where land is taken are:
- the [market value of the interest in the land taken](#)
 - [‘disturbance’ payments](#) for losses caused by reason of losing possession of the land and other losses not directly based on the value of land, for example, costs arising from the relocation to a replacement property
 - [loss payments](#) for the distress and inconvenience of being required to sell and/or relocate from your property at a time not of your choosing
 - [‘severance/injurious affection’](#) payments for the loss of value caused to retained land by reason of it being severed from the land taken, or caused as a result of the use to which the land is put

76. What are the elements of compensation where no land is taken?

76.1 Broadly, the elements of compensation where no land is taken are:

- [injurious affection](#)
- [Part 1 Land Compensation Act 1973 claims](#)

77. What is the market value of the interest in the land taken?

77.1 The value of land taken is the amount which it might be expected to realise if sold on the open market by a willing seller ([Land Compensation Act 1961, section 5, rule 2](#)), disregarding any effect on value of the scheme of the acquiring authority (known as the 'no scheme' principle). In addition to existing planning permissions, [section 14 of the Land Compensation Act 1961](#) (as amended by [section 189 of the Levelling-up and Regeneration Act 2023](#)) provides for certain assumptions as to what planning permissions might be granted in the no scheme world to be taken into account in determining the open market value of land ('planning assumptions').

77.2 Certificates of Appropriate Alternative Development may be used to indicate the planning permissions that could have been obtained in the no scheme world, which will affect any development value of the land (see [Section 23 for guidance on Certificates of Appropriate Alternative Development](#)). Alternatively, where the property is used for a purpose for which there is no general demand or market (e.g. a church) and the owner intends to reinstate elsewhere, the owner may be awarded compensation on the basis of the reasonable cost of equivalent reinstatement (see [Land Compensation Act 1961, section 5, rule 5](#)).

78. What are the planning assumptions?

78.1 [Section 14 of the Land Compensation Act 1961](#) (as amended by [section 189 of the Levelling-up and Regeneration Act 2023](#)) provides the legal framework for assessing compensation for the compulsory purchase of land in accordance with [rule \(2\) of section 5 of the Land Compensation Act 1961](#) (determining open market value). The planning assumptions under section 14 (as amended) are as follows:

- (i). subsection (2): account may be taken of:
- [\(a\)](#) any planning permission in force for development on the relevant land or other land at the relevant valuation date; and
 - [\(b\)](#) the prospect of planning permission being granted on or after the relevant valuation date for development on the relevant land or other land other than for development for which planning permission is already in force at the relevant valuation date. The prospects of planning permission under [subsection \(2\)\(b\)](#) are to be assessed on the assumptions set out in subsection (5) (see below) and otherwise in the circumstances known to the market at the relevant valuation date ([subsection \(2B\)\(b\)](#)).

- (ii). [subsection \(2A\)](#): if a description of development is certified under section 17 of the 1961 Act as appropriate alternative development in relation to the relevant land or any part of it, it is to be taken as certain for the purposes of assessing the prospect of planning permission under [subsection \(2\)\(b\)](#) that:
 - (a) planning permission for that description of development would be, or would have been, granted on the relevant valuation date, and
 - (b) the permission would be, or would have been, granted subject to any conditions or pre-conditions given under [section 17\(5B\)](#).

- (iii). [subsection \(5\)](#): contains the basic assumptions referred to above under [subsection 2\(b\)](#) that:
 - (a) the scheme underlying the acquisition had been cancelled on the launch date;
 - (b) no action has been taken by the acquiring authority for the purposes of the scheme;
 - (c) there is no prospect of the same or a similar scheme being taken forward by the exercise of a statutory power or by compulsory purchase; and
 - (d) if the scheme is for a highway, no other highway would be constructed to meet the same need as the scheme.

- (iv). [subsection \(6\)](#): defines the 'launch date' as:
 - (a) for a compulsory purchase order, the publication date of the notice required under [section 11](#) of, or paragraph 2 of [Schedule 1](#) to, the Acquisition of Land Act 1981;
 - (b) for any other order (such as under the [Transport and Works Act 1992](#) or a development consent order under the [Planning Act 2008](#)) the date of first publication or service of the relevant notice; or
 - (c) for a special enactment, the date of first publication of the first notice required in connection with the acquisition.

79. On what date are the planning assumptions assessed?

79.1 The planning assumptions are assessed on the relevant valuation date (as defined in [section 5A of the Land Compensation Act 1961](#)) rather than the launch date of the scheme (even though the scheme is still assumed to have been cancelled on the launch date). This will avoid the need to reconstruct the planning regime that existed on the launch date, including old development plans, national planning policy and guidance. Also, that the planning assumptions are based on 'the circumstances known to the market at the relevant valuation date', which would include the provisions of the development plan. This removes the need for the specific references to the development plan which were contained in the previous section 16 of the Land Compensation Act 1961 that had become out of date and was subsequently repealed.

80. How should the value of the land be assessed in light of the 'no scheme principle'?

80.1 [Sections 6A to 6E of the Land Compensation Act 1961](#) (inserted by [section 32 of the Neighbourhood Planning Act 2017](#)¹¹), set out how the value of the land should be assessed applying the ‘no scheme principle’.

80.2 Section 6A sets out the ‘no scheme principle’ that any increases or decreases in value caused by the scheme underlying the compulsory purchase order, or the prospect of that scheme, must be disregarded. When applying the ‘no scheme principle’, the following 5 rules (i.e. the ‘no scheme rules’) are to be followed:

- rule 1: it is to be assumed that the scheme underlying the compulsory purchase order was cancelled on the relevant valuation date
- rule 2: it is to be assumed that no action has been taken (including acquisition of any land, and any development or works) by the acquiring authority, or on behalf of the acquiring authority, wholly or mainly for the purposes of the scheme underlying the compulsory purchase order. For example, where an acquiring authority has entered into an agreement with a developer to deliver a scheme underpinned by use of compulsory purchase powers, actions taken by the developer are actions taken by the acquiring authority for the purposes of this Rule. Any such action taken, including, for example, works carried out by that developer, should be assumed not to have been taken
- rule 3: it is to be assumed that there is no prospect of the same scheme which is underlying the compulsory purchase order, or any other project to meet the same or substantially the same need as that being delivered by the scheme underlying the compulsory purchase order, being carried out in the exercise of a statutory function or by the exercise of compulsory purchase powers
- rule 4: it is to be assumed that no other projects would have been carried out in the exercise of a statutory function or by the exercise of compulsory purchase powers if the scheme underlying the compulsory purchase order had been cancelled on the relevant valuation date
- rule 5: if there was a reduction in the value of land as a result of—
 - (a) the prospect of the scheme underlying the compulsory purchase order (including before the scheme or the compulsory acquisition in question was authorised)
 - (b) the fact that the land was blighted land as a result of the scheme underlying the compulsory purchase order

that reduction is to be disregarded. “Blighted land” in this regard means land of a description listed in [Schedule 13 to the Town and Country Planning Act 1990](#)

¹¹ The amendments made by section 32 of the Neighbourhood Planning Act 2017 apply to a compulsory purchase of land which is authorised on or after 22 September 2017.

80.3 Section 6B provides that any increases in the value of the claimant's other land, which is contiguous or adjacent to the land taken, is deducted from the compensation payable. This is known as 'betterment'.

- 80.4 Section 6C provides that where a claimant is compensated for injurious affection for other land when land is taken for a scheme, and then that other land is subsequently subject to compulsory purchase for the purposes of the scheme, the compensation for the acquisition of the other land is to be reduced by the amount received for injurious affection.
- 80.5 Section 6D defines the ‘scheme’ for the purposes of establishing the no-scheme world. The default case, set out in subsection (1), is that the ‘scheme’ to be disregarded is the scheme of development underlying the compulsory acquisition. Subsection (2) makes special provision for new towns, urban development corporations and mayoral development corporations. Where land is acquired in connection with these areas, the ‘scheme’ is the development of any land for the purposes for which the area is or was designated.
- 80.6 Section 6D(3) and (4) also makes special provision. It provides that where land is acquired for development (including redevelopment, regeneration and improvement as per [section 6D\(7\)](#)) which is facilitated or made possible by a ‘relevant transport project’ (defined in section 6D(4)(a)) ‘the scheme’ includes the relevant transport project.

81. Why is special provision made for relevant transport projects?

- 81.1 New transport projects often raise land values in the vicinity of stations or hubs which can facilitate development such as regeneration, redevelopment and improvement schemes. Where land is acquired for a development scheme, which is facilitated or made possible by a relevant transport project, the effect of Section 6D(3) is that the scheme to be disregarded includes the relevant transport project – subject to the qualifying conditions and safeguards in section 6E (see below). The intention of this special provision is to ensure an acquiring authority should not pay for land it is acquiring at values that are inflated by its own or others’ public investment in the relevant transport project.
- 81.2 Where it applies, the land in question will be valued as if the transport project as well as the development scheme had been cancelled on the relevant valuation date (defined in section 5A). The qualifying conditions and safeguards in section 6E(2) are, in summary that:
- the development (including regeneration, redevelopment or improvement) of land in the vicinity of land comprised in the relevant transport project was part of the published justification for that relevant transport project
 - the instrument authorising the compulsory purchase of the land acquired for development was made or prepared in draft on or after 22 September 2017
 - the development land must be in the vicinity of land comprised in the relevant transport project
 - the works comprised in the relevant transport project are first opened for use no earlier than 22 September 2022

- the compulsory purchase of the land acquired for development must be authorised within 5 years of the works comprised in the relevant transport project first opening for use

81.3 However, ‘the scheme’ for the purposes of assessing compensation payable to a person in respect of the compulsory acquisition of the land for development will not be treated as if it included the relevant transport project if the owner acquired the land after plans for the relevant transport project were announced but before either:

- (a) 8 September 2016 (the day after the Neighbourhood Planning Bill was printed), in a case where the land was acquired for regeneration or redevelopment and regeneration or redevelopment was part of the published justification for the relevant transport project)
- (b) in any other case, 1 May 2024 (the first day after the period of three months beginning with 31 January 2024 i.e. the day on which section 188 of the Levelling-up and Regeneration Act 2023 came into force (see [section 6E\(3A\)\(b\) of the Land Compensation Act 1961](#) inserted by section 188(2)(d) of the Levelling-up and Regeneration Act 2023)

81.4 This specific safeguard (under [section 6E\(3\)](#)) is intended to provide protection in circumstances where land was purchased:

- on the basis of a public announcement whose effect was to provide a reasonable degree of certainty about the delivery of a relevant transport project at a particular location
- before the Government introduced legislation that made special provision for relevant transport projects

81.5 Where the specific safeguard applies, the ‘scheme’ will not be treated as if it included the relevant transport project in assessing the compensation payable in respect of the compulsory acquisition of that land. In such circumstances, any increase or decrease in the value of the owner’s land caused by the relevant transport project does not have to be disregarded.

82. When is a relevant transport project announced for the purposes of the specific safeguard in section 6E(3)?

82.1 Whether and/or when such a project is ‘announced’ is a question of fact in each case to be determined by the Upper Tribunal (Lands Chamber) in the event of disagreement. The evidence put before the Upper Tribunal (Lands Chamber) could include, among other things, the following matters:

- the inclusion of the relevant transport project, at or near a particular location, in an approved or adopted development plan document
- the inclusion of the relevant transport project in an application for a development consent order or in a compulsory purchase order

- the inclusion of the relevant transport project in a proposal contained in an application for, or in a draft, Transport and Works Act Order for the purposes of the Transport and Works Act 1992
- the inclusion of the relevant transport project in any Bill put before Parliament
- a decision announced by a Minister of, or of approval for, a relevant transport project at a particular location

83. What if the definition of the ‘scheme’ is disputed?

- 83.1 Section 6D(5) provides that if there is disagreement between parties as to the definition of the ‘scheme’ to be disregarded that this can be determined by the Upper Tribunal as a question of fact subject as follows. First, the ‘scheme’ is to be taken by the Upper Tribunal to be the underlying scheme provided for by the act, or other authorising instrument unless it is shown that the ‘scheme’ is a scheme larger than, but including, the scheme provided for by that authorising instrument. Second, except by agreement or in special circumstances, the Upper Tribunal may only permit the acquiring authority to advance evidence of a larger scheme if that larger scheme was identified in the authorising instrument and any documents made available with it read together.

84. What is the relevant valuation date?

- 84.1 [Section 5A of the Land Compensation Act 1961](#) establishes the date at which land compulsorily acquired is to be valued for compensation purposes (the ‘relevant valuation date’). It also establishes that such a valuation is to be based on the market values prevailing at the valuation date and on the condition of the relevant land and any structures on it on that date.
- 84.2 The relevant valuation date is:
- the date of entry and taking possession if the acquiring authority have served a [notice to treat](#) and [notice of entry](#)
 - the vesting date if the acquiring authority has executed a [general vesting declaration](#)
 - the date on which the Upper Tribunal (Lands Chamber) has determined compensation if earlier
- 84.3 A claimant can agree compensation with the acquiring authority at any time in accordance with the provisions of [section 3 of the Compulsory Purchase Act 1965](#).
- 84.4 The relevant valuation date for the whole of the land included in any single notice of entry is the date on which the acquiring authority first takes possession of any part of that area of land (under [section 5A\(5\) of the Land Compensation Act 1961](#)). This means that compensation becomes payable to the claimant for the whole site covered by that notice of entry from that date.

The claimant also has the right to receive interest on the compensation due to them in respect of the value of the whole site covered by that notice of entry from that date until full payment is actually made (under section 5A(6) of the 1961 Act).

- 84.5 Under the terms of [section 11 of the Compulsory Purchase Act 1965](#), simple interest is payable at the [prescribed rate](#) from the date on which the authority enters and takes possession until the outstanding compensation is paid. Interest is not compounded as, neither section 32 nor regulations made under it, confer any power to pay interest on interest, and neither refers to frequency of calculation nor provides for periodic rests, which would be essential to any calculation of interest on a compound basis. It is therefore important that the date of entry is properly recorded by the acquiring authority.

85. Is an advance payment of compensation available?

- 85.1 If requested, and subject to sufficient information being made available by the claimant, the acquiring authority must make an advance payment on account of any compensation which is due for the acquisition of any interest in land, under [section 52 of the Land Compensation Act 1973](#) (as amended by sections 194 and 195 of the Housing and Planning Act 2016 and section 38 of the Neighbourhood Planning Act 2017)¹². Advance payments must be registered as local land charges to ensure that payments are not duplicated.

- 85.2 The amount payable in advance is:

- 90% of the agreed sum for the compensation
- 90% of the acquiring authority's estimate of the compensation due, if the acquiring authority takes possession before compensation has been agreed

86. Is an advance payment available for a mortgage?

- 86.1 In certain circumstances, a claimant can require the acquiring authority to make advance payments of compensation direct to the claimant's mortgage lender. Advance payments relating to the amount owing to the mortgage lender can be made:
- direct to the mortgage lender only with their consent
 - to more than one mortgage lender, if the interest of any other mortgage lender whose interest has priority has been released

¹² The amendments made by section 194(1) to (3) and section 195 of the Housing and Planning Act 2016 and section 38 of the Neighbourhood Planning Act 2017 apply to a compulsory purchase of land which is authorised on or after 6 April 2018

- 86.2 [Section 52ZA of the Land Compensation Act 1973](#) (as amended by section 195 of the Housing and Planning Act 2016) enables an acquiring authority to make an advance payment to a claimant's mortgage lender where the total amount outstanding under the mortgage does not exceed 90% of the estimated total compensation due to the claimant. Alternatively, [section 52ZB](#) (as amended by section 195 of the Housing and Planning Act 2016) applies where the total amount exceeds 90% of the total estimated compensation due to the claimant.
- 86.3 The conditions relating to both types of payments are complex and, in order to protect the interests of all parties, it will be advisable for an acquiring authority to work closely with both the claimant and the claimant's mortgage lender(s) in determining the amount of the advance payment payable.

87. What information should a claimant provide when requesting an advance payment of compensation?

- 87.1 As the amount payable is 90% of the acquiring authority's estimate of the compensation due, it is in the interests of claimants to provide early and full information to the authority to ensure that the estimate is as robust as possible.
- 87.2 Acquiring authorities should encourage claimants to seek professional advice in relation to their compensation claim. They should also provide claimants with information as to the kinds of evidence they may be expected to provide in support of their compensation claim including, for example:
- detailed records of losses sustained and costs incurred in connection with the acquisition of their property
 - all relevant supporting documentary evidence such as receipts, invoices and fee quotes
 - business accounts for at least 3 years prior to the acquisition and continuing to the date of the claim
 - a record of the amount of time they have spent on matters relating to the compulsory purchase of their property
- 87.3 [Sections 52\(2\)](#) and [\(2A\)](#) and [52ZC\(2\) of the Land Compensation Act 1973](#) (as amended by section 194 of the Housing and Planning Act 2016) set out what information the claimant must provide and give the acquiring authority 28 days to request further information. The Secretary of State who has responsibility for housing and planning matters has published on the Government's website a [model claim form](#) which claimants are strongly encouraged to use when making a claim for an advance payment.

88. Is there a deadline for making and paying an advance payment?¹³

- 88.1 [Section 52\(1\) of the Land Compensation Act 1973](#) (as amended by section 195 of the Housing and Planning Act 2016) allows a claim for an advance payment to be made and paid at any time after the compulsory acquisition has been authorised. However, an acquiring authority must make an advance payment within 2 months of receipt of the claim or any further information requested under subsection 52(2A)(b) or 52ZC(2), or the date the notice of entry was issued or general vesting declaration was executed, whichever is the later.
- 88.2 There is special provision, under [subsections \(1A\) and \(4\) of section 52 of the Land Compensation Act 1973](#), where the compulsory acquisition is one to which the [Lands Clauses Consolidation Act 1845](#) applies. In these cases, the acquiring authority may not make an advance payment if they have not taken possession of the land, but must do so if they have. The payment must be made before the end of the day on which possession is taken, or, if later, before the end of the period of two months beginning with the day on which the authority received the request for the payment or any further information required under [section 52\(2A\)\(b\)](#).
- 88.3 Acquiring authorities should make prompt and adequate advance payments as this can:
- reduce the amount of the interest ultimately payable by the authority on any outstanding compensation
 - help claimants to have sufficient liquidity to be able to make satisfactory arrangements for their relocation
- 88.4 Acquiring authorities are urged to adopt a sympathetic approach and take advantage of the flexibility offered by [section 52\(1\) of the Land Compensation Act 1973](#) where possible.

89. What happens if an advance payment is made but the compulsory purchase does not go ahead?¹⁴

- 89.1 [Section 52AZA of the Land Compensation Act 1973](#) (as amended by section 197 of the Housing and Planning Act 2016) requires a claimant to repay any advance payment if the notice to treat is withdrawn or ceases to have effect after the advance payment is made.
- 89.2 If another person has since acquired the whole of the claimant's interest in the land, the successor will be required to repay the advance payment (provided it was registered as a local land charge in accordance with [section 52\(8A\) of the Land Compensation Act 1973](#)).

¹³ The amendments made by section 195 of the Housing and Planning Act 2016 and section 38 of the Neighbourhood Planning Act 2017 apply to a compulsory purchase of land which is authorised on or after 6 April 2018

¹⁴ The amendments made by section 197 and section 198 of the Housing and Planning Act 2016 apply to a compulsory purchase of land which is authorised on or after 6 April 2018.

- 89.3 [Section 52ZE of the Land Compensation Act 1973](#) (as amended by section 198 of the Housing and Planning Act 2016) provides for the recovery of an advance payment to a mortgage lender if the notice to treat has been withdrawn or ceases to have effect. In these circumstances, the claimant must repay the advance payment unless someone else has acquired the claimant's interest in the land. In this case, the successor to the claimant must make the repayment.

90. What is compensation for disturbance?

- 90.1 One element of compensation payable to a claimant is in respect of losses caused as a result of being disturbed from possession of the land taken and other losses caused by the compulsory purchase. This is known as 'disturbance' compensation. The right to compensation for disturbance is set out in the [Land Compensation Act 1961, section 5, rule 6](#). Disturbance payments may include, for example, the costs and expenses of vacating the property and moving to a replacement property such as legal costs, other fees and losses, conveyancing costs and other professional fees.
- 90.2 There are also specific provisions for disturbance payments relating to different interests in land as follows:
- [section 20 of the Compulsory Purchase Act 1965](#) - disturbance for persons who have no greater interest in the land than as tenant for a year or from year to year
 - [section 46 of the Land Compensation Act 1973](#) - disturbance where a business is carried on by a person over sixty
 - [section 47 of the Land Compensation Act 1973](#) - disturbance where land is the subject of a business tenancy
 - [section 37 of the Land Compensation Act 1973](#) - disturbance for persons without compensatable interests in the land acquired

91. Does the 'Bishopsgate principle' still apply to compensation for disturbance?

- 91.1 Prior to measures in the Neighbourhood Planning Act 2017, case law (*Bishopsgate Space Management v London Underground* [2004] 2 EGLR 175) held that for disturbance compensation purposes where the interest in the land to be acquired was a minor tenancy (a tenancy with less than a year left to run, or a tenancy from year to year) or an unprotected tenancy (a tenancy without the protection of Part 2 of the Landlord and Tenant Act 1954), the acquiring authority should assume that the landlord terminates the tenant's interest at the first available opportunity following notice to treat, whether that would happen in reality or not.

- 91.2 This was to be contrasted with the position for compensation for disturbance for occupiers of business premises with no interest in the land (payable under [section 37 of the Land Compensation Act 1973](#)) which was not subject to this artificial assumption.
- 91.3 [Section 47 of the Land Compensation Act 1973](#) (inserted by section 35 of the Neighbourhood Planning Act 2017¹⁵) brings the assessment of compensation for disturbance for minor and unprotected tenancies into line with that for licensees and protected tenancies (a tenancy with the protection of [Part 2 of the Landlord and Tenant Act 1954](#)). Regard should be had to the likelihood of either continuation or renewal of the tenancy, the total period for which the tenancy might reasonably have been expected to continue, and the likely terms and conditions on which any continuation or renewal would be granted. For protected tenancies, the right of a tenant to apply for a new tenancy is also to be taken into account.

92. What are loss payments?

- 92.1 Loss payments are intended to compensate for the claimant's distress and inconvenience of being required to sell and/or relocate from their property at a time not of their choosing (see [sections 29-36 of the Land Compensation Act 1973](#)). There are three main types of loss payment:
- home loss payments – see [sections 29-33 of the Land Compensation Act 1973](#)
 - basic loss payment – see [section 33A of the Land Compensation Act 1973](#)
 - occupier's loss payment - [sections 33B](#) and [33C of the Land Compensation Act 1973](#)

93. What are severance and injurious affection?

- 93.1 Severance occurs when the land acquired contributes to the value of the land which is retained, so that when severed from it, the retained land loses value.
- 93.2 For example, if a new road is built across a field it may no longer be possible to have access by vehicle to part of the field, rendering it less valuable.
- 93.3 Injurious affection is the depreciation in value of the retained land as a result of the proposed construction on, and use of, the land acquired by the acquiring authority for the scheme. For example, even though only a small part of a farm holding may be acquired for a new road, the impact of the use of the road may reduce the value of the farm.
- 93.4 The principle of compensation for severance is set out in [section 7 of the Compulsory Purchase Act 1965](#).

¹⁵ The amendments made by section 35 of the Neighbourhood Planning Act 2017 apply to a compulsory purchase of land which is authorised on or after 22 September 2017

94. What is injurious affection where no land is taken?

- 94.1 Injurious affection where no land is taken refers to the right to compensation in certain circumstances where the value of an interest in land has been reduced as a result of the execution of works authorised by statute.
- 94.2 The principle of compensation for injurious affection where no land is taken is set out in [section 10 of the Compulsory Purchase Act 1965](#).

95. What are Part 1 claims?

- 95.1 In certain circumstances compensation is payable to landowners in respect of depreciation of the value of their land by certain physical factors (noise, vibration, smell, fumes, smoke, artificial lighting, discharge on the land of a liquid or solid substance) caused by the use of a new or altered highway, aerodrome or other public works (see [Part 1 of the Land Compensation Act 1973](#)).

Tier 2: Enabling Powers

It is likely that only one of the following enabling powers will be relevant in an individual case.

96. Where can further information on the powers of acquisition be found?

96.1 Further information can be found here:

- [Section 1: Advice on section 226 of the Town and Country Planning Act 1990](#)
- [Section 2: Advice on section 121 of the Local Government Act 1972](#)
- [Section 3: Homes England](#)
- [Section 4: Urban Development Corporations](#)
- [Section 5: New Town Development Corporations](#)
- [Section 6: Mayoral Development Corporations](#)
- [Section 7: Powers of local housing authorities for housing purposes and listed buildings in slum clearance](#)
- [Section 8: To improve the appearance or condition of land](#)
- [Section 9: For educational purposes](#)
- [Section 10: For public libraries and museums](#)
- [Section 11: For airport Public Safety Zones](#)
- [Section 12: For listed buildings in need of repair](#)
- [Section 13: For the purposes of facilitating biodiversity net gain](#)

Section 1: Advice on section 226 of the Town and Country Planning Act 1990

97. Can local authorities compulsorily acquire land for development and other planning purposes?

97.1 Under [section 226 of the Town and Country Planning Act 1990](#) the following bodies (which are local authorities for the purposes of that section):

- county, district or London borough councils ([section 226\(8\)](#))
- joint planning boards ([section 244\(1\)](#))
- national park authorities ([section 244A](#))

can acquire land compulsorily for development and other planning purposes as defined in [section 246\(1\)](#).

98. What is the purpose of this power?

98.1 This power is intended to provide a positive tool to help local authorities with planning powers to assemble land where this is necessary to implement proposals in their development plan or where strong planning justifications for the use of the power exist. It is expressed in wide terms and can therefore be used to assemble land for regeneration and other schemes where the range of activities or purposes proposed mean that no other single specific compulsory purchase power would be appropriate.

99. Can this power be used in place of other more appropriate enabling powers?

99.1 This power should not be used in place of other more appropriate enabling powers. The statement of reasons accompanying the order should make clear the justification for the use of this specific power. In particular, the confirming authority may refuse to confirm an order if they consider that this general power is or is to be used in a way intended to frustrate or overturn the intention of Parliament by attempting to acquire land for a purpose which had been explicitly excluded from a specific power.

100. What can the power be used for?

100.1 The power can be used as follows:

- section 226(1)(a) enables local authorities with planning powers to acquire land if they think that it will facilitate the carrying out of development (as defined in [section 55 of Town and Country Planning Act 1990](#)), redevelopment or improvement (which includes regeneration) on, or in relation to, the land being acquired and it is not certain that they will be able to acquire it by agreement - further guidance on use of the power under [section 226\(1\)\(a\)](#) can be found [below in paragraphs 105 - 110](#)

- [section 226\(1\)\(b\)](#) allows a local authority, if authorised, to acquire land in their area which is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated. The potential scope of this power is broad. It is intended to be used primarily to acquire land which is not required for development, redevelopment or improvement (which includes regeneration), or as part of such a scheme
- [section 226\(3\)](#) provides that an order made under either [section 226\(1\)\(a\) or \(b\)](#) may also provide for the compulsory purchase of:
 - (a) any adjoining land which is required for the purpose of executing works for facilitating the development or use of the primary land
 - (b) land to give in exchange for any of the primary land which forms part of a common or open space or fuel or field garden allotment

A local authority intending to acquire land for either of these purposes in connection with the acquisition of land under subsection (1) must therefore specify *in the same order* the appropriate subsection (3) acquisition power and purpose.

101. Does an order have to specify which paragraph of section 226(1) it is made under?

- 101.1 The Secretary of State who has responsibility for housing and planning matters takes the view that an order made under section 226(1) should be expressed in terms of either paragraph (a) or paragraph (b) of that subsection. As these are expressed as alternatives in the legislation, the order should clearly indicate which is being exercised, quoting the wording of paragraph (a) or (b) as appropriate as part of the description of what is proposed.

102. Can the powers in section 226(1) or 226(3)(a) be used only if the purpose or activity specified in the order is to be taken forward by the acquiring authority itself?

- 102.1 [Section 226\(4\)](#) provides that it is immaterial by whom the authority propose that any activity or purpose mentioned in [section 226\(1\)](#) or [226\(3\)\(a\)](#) should be undertaken or achieved. In particular, the authority does not need to undertake an activity or achieve a purpose themselves.

103. In deciding whether to confirm orders made under section 226, does the confirming authority need to take into account all objections?

- 103.1 [Section 245\(1\) of the Town and Country Planning Act 1990](#) provides the confirming authority with the right to disregard objections to compulsory purchase orders made under [section 226](#) of that Act which, in its opinion, amount to an objection to the provisions of the development plan.

104. Can Crown land be compulsorily purchased?

- 104.1 [Sections 293](#) and [226\(2A\) of the Town and Country Planning Act 1990](#) apply where a local authority with planning powers proposes to acquire land compulsorily under section 226 in which the Crown has an interest. The Crown's interest cannot be acquired compulsorily under [section 226](#), but an interest in land held otherwise than by or on behalf of the Crown may be acquired with the agreement of the appropriate body. This might arise, for example, where a government department which holds the freehold interest in certain land may agree that a lesser interest, perhaps a lease or a right of way may be acquired compulsorily and that that interest may, therefore, be included in the order. For further advice about the purchase of interests in Crown land ([see Section 22 of this guidance](#)).

Section 226(1)(a)

105. Does the development, redevelopment or improvement (which includes regeneration) scheme need to be taking place on the land to be acquired?

- 105.1 The scheme of development, redevelopment or improvement (which includes regeneration) for which the land needs to be acquired does not necessarily have to be taking place on that land so long as its acquisition can be shown to be essential to the successful implementation of the scheme. This could be relevant, for example, in an area of low housing demand where property might be being removed to facilitate replacement housing elsewhere within the same neighbourhood.

106. Are there any limitations on the use of this power?

- 106.1 The wide power in [section 226\(1\)\(a\)](#) is subject to the restriction under [section 226\(1A\)](#). This provides that the local authority must not exercise the power unless they think that the proposed development, redevelopment or improvement (which includes regeneration) is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of the area for which the local authority has administrative responsibility.
- 106.2 The benefit to be derived from exercising the power is not restricted to the area subject to the compulsory purchase order, as the concept is applied to the well-being of the whole (or any part) of the local authority's area.

107. What justification is needed to support a compulsory purchase order to acquire land compulsorily under section 226(1)(a)?

- 107.1 Any programme of land assembly needs to be set within a clear strategic framework and this will be particularly important when demonstrating the justification for acquiring land compulsorily under [section 226\(1\)\(a\)](#). Such a framework will need to be founded on an appropriate evidence base and to have been subjected to consultation processes, including those whose property is directly affected.

- 107.2 Whilst it is not expected that all impediments to the delivery of a scheme will have been removed or overcome by the point at which the decision on the confirmation of compulsory purchase order is made, the planning framework providing the justification for the order should be as detailed as possible to demonstrate that there are unlikely to be planning or other impediments to the implementation of the scheme following the confirmation decision being made.
- 107.3 Where the justification for a scheme is linked to proposals identified in a development plan document which has been through the consultation processes but has either not yet been examined or is awaiting the recommendations of the inspector, this will be given due weight.
- 107.4 Where the local plan is out of date, it may well be appropriate to take account of more detailed proposals being prepared on a non-statutory basis with the intention that they will be incorporated into the local plan at the appropriate time. Where such proposals are being used to provide additional justification and support for a particular order, there should be clear evidence that all those who might have objections to the underlying proposals in the supporting non-statutory plan have had an opportunity to have them taken into account by the body promoting that plan, whether or not that is the authority making the order. In addition, the National Planning Policy Framework is a material consideration in all planning decisions and should be taken into account.

108. Do full details of a scheme need to be worked up before a local authority can proceed with a compulsory purchase order?

- 108.1 It may not always be feasible or sensible to wait until the full details of the scheme have been worked up, and planning permission obtained, before proceeding with the order. Furthermore, in cases where the proposed acquisitions form part of a longer-term strategy which needs to be able to cope with changing circumstances, it may not always be possible to demonstrate with absolute clarity or certainty the precise nature of the end use proposed. It may also be necessary to assemble land before removing or overcoming certain impediments to maximise the opportunities that exist for the area and to attract investment. In all such cases the responsibility will lie with the local authority to put forward a compelling case for acquisition in advance of resolving all the uncertainties.
- 108.2 The confirming authority will expect the statement of reasons accompanying the submission of the compulsory purchase order to include a summary of the planning framework for the land concerned in sufficient detail to give reassurance of the use of the land following acquisition and the justification for the timing of the acquisition.

109. What factors will the confirming authority take into account in deciding whether to confirm a compulsory purchase order under section 226(1)(a)?

109.1 Any decision about whether to confirm an order made under [section 226\(1\)\(a\)](#) will be made on its own merits, but the factors which the confirming authority can be expected to consider include:

- whether the purpose for which the land is being acquired fits in with the development plan for the area (including the adopted local plan for the area or, where no such up to date local plan exists, with the draft local plan) and the [National Planning Policy Framework](#)
- the extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the area
- whether the purpose for which the local authority is proposing to acquire the land could be achieved by any other means. This may include considering the appropriateness of any alternative proposals put forward by the owners of the land, or any other persons, for its reuse (see below). It may also involve examining the suitability of any alternative locations for the purpose for which the land is being acquired
- the potential financial viability of the scheme for which the land is being acquired. A general indication of funding intentions, and of any commitment from third parties, will usually suffice to reassure the confirming authority that there is a reasonable prospect that the scheme will proceed. The greater the uncertainty about the financial viability of the scheme, however, the more compelling the other grounds for undertaking the compulsory purchase will need to be. The timing of any available funding may also be important. For example, a strict time limit on the availability of the necessary funding may be an argument put forward by the local authority to justify proceeding with the order before finalising the details of the replacement scheme and/or the statutory planning position

110. What does the confirming authority have to consider where there are other proposals for the use of land contained within a compulsory purchase order?

110.1 Where the owners of land or other parties have their own proposals for the use or development of land contained within a compulsory purchase order, considerations for the confirming authority will include whether the alternative proposals fit with the objectives of the local authority or deliver better outcomes when judged against the relevant purposes set out in [section 226 of the Town and Country Planning Act 1990](#).

110.2 Another consideration could be whether the alternative proposals are capable of being or likely to be implemented in a timely manner, taking into account other relevant factors including:

- the land's ownership and the ability for the current ownership to bring forward the relevant proposal

- any previous attempts to bring forward development, redevelopment or improvement (which includes regeneration) on the land
- the condition of the relevant land

However, there may be circumstances where, despite there being a reasonable alternative proposal, acquisition by the local authority is appropriate and in the public interest to best achieve the objectives of the local authority.

Section 2: Advice on Section 121 of Local Government Act 1972

111. What can the general compulsory purchase powers for local authorities be used for?

- 111.1 The general power of compulsory purchase at [section 121 of the Local Government Act 1972](#) can (subject to certain constraints) be used by local authorities in conjunction with other enabling powers to acquire land compulsorily for the stated purpose. It may also be used where land is required for more than one function and no precise boundaries between uses are defined.
- 111.2 Section 121 can also be used to achieve compulsory purchase in conjunction with section 120 of the Local Government Act 1972. Section 120 provides a general power for a principal council i.e. a county, district or London borough council to acquire land by agreement for a statutory function in respect of which there is no specific land acquisition power or where land is intended to be used for more than one function.
- 111.3 Some of the enabling powers in legislation (in the enabling act) for local authorities to acquire land by agreement for a specific purpose do not include an accompanying power of compulsory purchase, for example:
- public walks and pleasure grounds - [section 164, Public Health Act 1875](#)
 - public conveniences – [section 87, Public Health Act 1936](#)
 - cemeteries and crematoria – [section 214, Local Government Act 1972](#)
 - recreational facilities – [section 19, Local Government \(Miscellaneous Provisions\) Act 1976](#)
 - refuse disposal sites – [section 51, Environmental Protection Act 1990](#)
 - land drainage – [section 62\(2\), Land Drainage Act 1991](#)
- 111.4 In addition, section 125 contains a general power for a district council to acquire land compulsorily (subject to [certain restrictions](#)) on behalf of a parish council which is unable to purchase by agreement land needed for the purpose of a statutory function.

112. What considerations apply in relation to making and submitting an order under Part 7 of the Local Government Act 1972?

- 112.1 The normal considerations in relation to making and submission of a compulsory purchase order, as described in [Section 16: Preparing and serving the order and its notices](#), would apply to orders relying upon section 121 or section 125. These include the requirement that compulsory purchase should only be used where there is a compelling case in the public interest.

113. Who is the confirming authority for orders under Part 7 of the Local Government Act 1972?

- 113.1 The confirming authority for orders under [Part 7 of the 1972 Act](#) is the Secretary of State who has responsibility for housing and planning matters.

114. What information should be included in orders under sections 121 or 125 about the acquisition power?

- 114.1 Paragraph 1 of the order should cite the relevant acquisition power (section 121 or 125) and state the purpose of the order, by reference to the enabling act under which the purpose may be achieved.
- 114.2 Where practicable, the words of the relevant section(s) of the enabling act(s) should be inserted into the prescribed form of the order (see Note (f) to Forms 1 to 3 in the [Schedule to the Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) Regulations 2004 \(as amended\)](#)¹⁶). For example:

‘.... the acquiring authority is under section 121 [125] of the Local Government Act 1972 hereby authorised to purchase compulsorily [on behalf of the parish council of] the land described in paragraph 2 for the purpose of providing premises for use as a recreation/community centre under section 19 of the Local Government (Miscellaneous Provisions) Act 1976.’

115. What restrictions are there to the use of the powers under sections 121 and 125?

- 115.1 Section 121(2) sets out certain purposes for which principal councils may not purchase land compulsorily under section 121 as follows:
- (a) for the purposes specified in section 120(1)(b), i.e. the benefit, improvement or development of their area. Councils may consider using their acquisition powers under the [Town and Country Planning Act 1990](#) for these purposes
 - (b) for the purposes of their functions under the [Local Authorities \(Land\) Act 1963](#)
 - (c) for any purpose for which their power of acquisition is expressly limited to acquisition by agreement only, e.g. [section 9\(a\) of the Open Spaces Act 1906](#)

There are similar limitations in section 125(1) for orders made by district councils on behalf of parish councils.

¹⁶ The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by [The Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) \(Amendment\) Regulations 2024](#)

116. What should a district council consider in deciding whether to make an order on behalf of a parish council?

- 116.1 The district council should have regard to the representations made to them by the parish council in seeking to get them to make such an order and to all the other matters set out in section 125.

117. What restrictions are there on a district council's power to make an order on behalf of a parish council?

- 117.1 A district council may not acquire land compulsorily on behalf of a parish council for a purpose for which a parish council is not, or may not be, authorised to acquire land, e.g. section 226 of the Town and Country Planning Act 1990 (see subsections (1) and (8)).
- 117.2 Section 125 also does not apply where the purpose of the order is to provide allotments under the Smallholdings and Allotments Act 1908. In such a case, by virtue of section 39(7) of the 1908 act, the district council should purchase the land compulsorily, on behalf of the parish council, under section 25 of that Act.

118. What happens if a district council refuses to make an order on behalf of a parish council or does not make one within required time period?

- 118.1 If a district council refuses to make an order under section 125, or does not make one within 8 weeks of the parish council's representations or within such an extended period as may be agreed between the two councils, the parish council may petition the Secretary of State who has responsibility for housing and planning matters, who may make the order.
- 118.2 Where an order is made by the Secretary of State in such circumstances, section 125 and the Acquisition of Land Act 1981 apply as if the order had been made by the district council and confirmed by the Secretary of State.

119. Can a single order be made by more than one authority and covering mixed purposes, and if so, how is it confirmed?

- 119.1 A single order may be made under section 121 of the Local Government Act 1972 by more than one council and for more than one purpose.
- 119.2 Where this would involve more than one confirming authority, the order may be submitted to one Secretary of State but it has to be processed through all the relevant government departments, involving concerted action by them.
- 119.3 Where an inquiry is required or is considered to be appropriate, the inspector's report will be submitted to each of the departments simultaneously and the decision will be given by the relevant confirming authorities acting together.

120. Can a district council make an order on behalf of more than one parish council?

- 120.1 A district council may also make an order on behalf of more than one parish council. Such an order might, for example, be made under section 125, for the purposes of section 214, on behalf of several parish councils which form a joint burial committee in the area of the district council.

121. What does a parish council need to consider before asking a district council to make an order on its behalf?

- 121.1 A parish council should consider very carefully whether it has the necessary resources to carry out a compulsory purchase of land. A district council which makes an order on behalf of a parish council may (and, in the case of an order made under the Allotments Act 1908, shall) recover from the parish council the expenses which it has incurred. This includes:
- the administrative expenses and costs of the inquiry
 - the inquiry costs awarded to successful statutory objectors, should the order not be confirmed, or confirmed in part
 - statutory compensation including, where appropriate, any additional disturbance, home loss, or other loss payments, to which the dispossessed owners may be entitled
 - any compensation for injurious affection payable to adjoining owners who may be entitled to claim
- 121.2 When considering whether to confirm or make an order, the Secretary of State will have regard to questions concerning the ability of the parish council to meet the costs of purchasing the land at market value and to carry forward the scheme for which the order has been or would be made.

Section 3: Homes England

122. What compulsory purchase powers does Homes England have?

- 122.1 [Homes England](#) has compulsory purchase powers to acquire land and new rights over land under subsections (2) and (3) of [section 9 of the Housing and Regeneration Act 2008](#).

123. When can Homes England use its compulsory purchase powers?

- 123.1 Homes England can use its powers to make a compulsory purchase order to facilitate the achievement of its objects set out in [section 2 of the Housing and Regeneration Act 2008](#). These are:

- to improve the supply and quality of housing in England
- to secure the regeneration or development of land or infrastructure in England
- to support in other ways the creation, regeneration or development of communities in England or their continued wellbeing
- and to contribute to the achievement of sustainable development and good design in England

with a view to meeting the needs of people living in England.

- 123.2 Where Homes England decides to make a compulsory purchase order, it will be submitted for confirmation to the Secretary of State who has responsibility for housing and planning matters in their role as confirming authority in the way set out in [Tier 3](#) of this guidance.

- 123.3 The [Localism Act 2011](#) amended the [Greater London Authority Act 1999](#) so that Homes England's activities in London are now the responsibility of the Mayor of London to undertake.

124. Why does Homes England have compulsory purchase powers?

- 124.1 Homes England is tasked with supporting private and public sector bodies to deliver housing and regeneration priorities throughout England by providing land, funding and expertise. Homes England's wide powers to compulsorily acquire land can, subject to the usual safeguards, ensure that activities undertaken for the purpose of, or incidental to, its object (such as the delivery of housing or infrastructure and associated enabling works, mitigation measures, ecological works) can take place in the right place at the right time, including to encourage its development by others by giving the market confidence that sites will be assembled.
- 124.2 The powers can also help Homes England achieve its role of facilitating the delivery of strategic and locally important sites, and of assisting other public and private sector delivery bodies including, for example, by taking a role in assembling land in an area where there is a development corporation or where a development corporation is being established.

125. How does Homes England justify the use of its compulsory purchase powers?

125.1 Homes England must demonstrate that:

- the proposed acquisition is for the purposes (or ‘objects’) set out in [section 2 of the Housing and Regeneration Act 2008](#) (see [When can Homes England use its compulsory purchase powers?](#))
- there is a compelling case in the public interest for the making of a compulsory purchase order (see [When should compulsory purchase powers be used?](#))

125.2 Homes England should also demonstrate that the proposed acquisition contributes to towards achieving the objectives of its Strategic Plan and that it is consistent with national planning policies or other national, regional or local housing or regeneration strategies or initiatives (including the relevant development plan for the area concerned).

125.3 The justification should be included in the [statement of reasons](#) for the compulsory purchase order and preferably backed by a development framework or masterplan which has been endorsed by Homes England’s Board.

125.4 It is not expected that all impediments to the delivery of a proposed scheme will have been removed or overcome by the point at which Homes England decide to make a compulsory purchase order. However, it may not always be feasible or sensible to wait for all impediments to the delivery of a proposed scheme to be resolved or overcome by the point at which the compulsory purchase order is made. For example, it may be necessary to assemble land via the making of a compulsory purchase order prior to removing or overcoming the following impediments to maximise the opportunities that exist for an area:

- lack of planning permission for the proposed scheme
- not having a site allocation in the development plan
- not completing all statutory procedures such as highways stopping-up orders

Such impediments should not prevent Homes England from taking steps to stimulate wider market investment and confidence. In such a case, the justification for the making of a compulsory purchase order could rely on matters such as:

- national or strategic planning policy or policies in an adopted development plan document, or
- particularly where there is no current adopted local plan, or where local plan policy is out of date, a comprehensive development framework or masterplan which has been consulted upon and endorsed by Homes England’s Board.

125.5 The circumstances in which Homes England may decide to make a compulsory purchase order in advance of seeking planning permission include where:

- early action is needed to assemble land for schemes of strategic national, regional or local importance
- there is a need to create market confidence
- the delivery of the public benefits associated with a comprehensive approach to development would be put at risk if development was to proceed in a piecemeal way

125.6 Where impediments have yet to be resolved or overcome, Homes England should demonstrate why compulsory acquisition is necessary at that point in time, explain how the use of the powers would help promote the achievement of its statutory objects, and show that the implementation of the scheme following the confirmation decision being made is unlikely to be blocked by any physical or legal impediments.

125.7 In all cases, Homes England will be expected to demonstrate it has reasonably firm intentions as to the proposed use of the land. Where the land is required for a defined end use or to provide essential infrastructure or mitigation measures (including among other things to achieve biodiversity net gain) to facilitate housing, regeneration or economic development, Homes England will also normally be expected to have a long-term strategic need for the land.

125.8 When preparing and justifying the making of a compulsory purchase order, Homes England should have regard to the general advice available in [Tier 1](#) of this guidance.

126. Can Homes England compulsorily acquire land even if it has no specific development proposals in place?

126.1 To achieve its statutory purposes (objects), it may be appropriate for Homes England to compulsorily acquire land for development or regeneration even though there is no planning permission and no specific detailed development proposals in place. Homes England does not usually undertake extensive building of development itself. Instead, it often provides assistance for a scheme by stimulating private sector investment and market confidence. Therefore, in some circumstances, it may be counterproductive for Homes England, through for example submitting a planning application, to predetermine what private sector development should take place once the land has been assembled.

126.2 There will be cases where Homes England will need to use its powers before detailed proposals have been developed due to a need to assemble land and interests to help provide confidence that a deliverable and/or investable proposition will be brought to the market. Also, Homes England may want to retain flexibility in the form and nature of the emerging proposals to assist market delivery of the scheme.

126.3 Nevertheless, when using its compulsory purchase powers, Homes England will still need to provide adequate justification and show that:

- the compulsory acquisition is supported by reasonably firm proposals or a long-term strategic need for the land
- the compulsory acquisition will achieve a clearly defined and deliverable objective in support of the achievement of its objectives in its Strategic Plan
- there is a compelling case in the public interest for the making of a compulsory purchase order

127. How will the confirming authority decide whether to confirm Homes England's compulsory purchase order?

127.1 To reach a decision about whether to confirm a compulsory purchase order made under [section 9 of the Housing and Regeneration Act 2008](#), the confirming authority will keep the following in mind:

- whether Homes England has demonstrated that the acquisition of the land will help further its statutory purposes (objects)
- the general considerations identified in the [Tier 1, Stage 4](#) general advice in this guidance on the consideration of the compulsory purchase order
- any guidance and directions which may be given under section 46 and/or section 47 of the Housing and Regeneration Act 2008 or otherwise issued by the Secretary of State
- whether the compulsory purchase of the land supports the activities described in Homes England's statement of reasons which accompanies the compulsory purchase order
- whether the compulsory purchase of the land supports the achievement of Homes England's objectives in its Strategic Plan

127.2 The confirming authority will also take other factors into consideration, depending on whether Homes England has specific proposals for the development or regeneration of the land or it wishes to acquire the land to stimulate private sector investment:

a) if Homes England has specific proposals for the land

If Homes England has proposals for the development or regeneration of the land that it wishes to acquire through compulsory purchase, the confirming authority will also consider

- the effect on the surrounding area that the purchase of the land by Homes England will have in terms of stimulating and/or maintaining the regeneration of the area, and/or being a catalyst for other development in the area

- if Homes England intends to carry out direct development, whether this would displace or disadvantage private sector development or investment without proper justification and that the objects of Homes England cannot be achieved by any other means
- the quality and sustainability of Homes England's proposals for the land and the timetable for completing those proposals

b) if Homes England does not have specific proposals for the land

If Homes England proposes to acquire the land for the purpose of providing confidence to the market that development, regeneration and/or infrastructure will be deliverable to stimulate private sector investment, the confirming authority will also have regard to the fact that it will not always be possible or desirable to have specific proposals for the land included in the compulsory purchase order (beyond any broad support in the context of its Strategic Plan or any justification given in statement of reasons accompanying the compulsory purchase order). However, the confirming authority will still want to be reassured that:

- there is a realistic prospect of the land being brought into beneficial use within a reasonable timeframe
- Home England can show that the use of its compulsory purchase powers is clearly in the public interest

c) where there are alternative proposals for the use of land included within a compulsory purchase order

Where landowners or other parties have their own proposals for the use or development of land which has been included within a compulsory purchase order, considerations for the confirming authority on whether there is a compelling case for the compulsory acquisition of the land by Homes England will include:

- whether such alternative proposals are likely to be, or are capable of being, implemented (including consideration of the experience and capability of the landowner or developer and any previous track record of delivery)
- the extent to which the alternative proposals may prejudice the delivery of comprehensive proposals being promoted by Homes England or may result in a reduced level of public benefits when compared to the proposals being advanced by Homes England
- how the alternative proposals fit with Homes England's scheme or Strategic Plan
- the land's ownership and the ability for the current owners to bring forward the relevant proposal
- any previous attempts to bring forward development, redevelopment or regeneration on the land

- the condition of the relevant land

However, there may be circumstances where, despite the adequacy of an alternative proposal, acquisition by Homes England may be in the public interest in order to optimise the public benefits for the area. Further, notwithstanding a landowner's willingness to take forward their own proposals, it may be considered by Homes England that it would be more appropriate for it to acquire the land.

For example, this could be where Homes England seeks to deliver a comprehensive scheme and only through fully assembling all of the necessary land will the public benefits be optimized, or where the landowner's inaction could risk the timely delivery of development or regeneration, or where leaving land with the existing owner(s) may have a negative impact on market confidence and interest.

Section 4: Urban Development Corporations

128. What is the purpose of an urban development corporation?

- 128.1 An urban development corporation is set up under [section 135 of the Local Government, Planning and Land Act 1980](#) ('the act') with the object, as set out in [section 136\(1\) of the Local Government, Planning and Land Act 1980](#), of securing the regeneration of the relevant urban development area. Under [section 134\(1\) of the Local Government, Planning and Land Act 1980](#), an area of land may be designated as an urban development area if the Secretary of State is satisfied that it is expedient in the national interest to do so. An urban development area is likely to have been designated because it contains significant areas of land not in effective use, suffered extensive dereliction and be unattractive to existing or potential developers, investors and residents. The acquisition of land and buildings by compulsory purchase is one of the main ways in which an urban development corporation can take effective steps to secure its statutory objectives.

129. How can regeneration be achieved?

- 129.1 [Section 136\(2\) of the of the Local Government, Planning and Land Act 1980](#) indicates regeneration can be achieved particularly by:
- bringing land and buildings into effective use
 - encouraging the development of existing and new industry and commerce
 - creating an attractive environment
 - ensuring that housing and social facilities are available to encourage people to live and work in the area

130. What powers does an urban development corporation have under the of the Local Government, Planning and Land Act 1980?

- 130.1 Subject to any limitations imposed under [section 137](#) or [138](#), [section 136\(3\) of the Act](#) provides an urban development corporation can acquire, hold, manage, reclaim and dispose of land, and carry out a variety of incidental activities. The compulsory purchase powers are set out in [section 142](#) of the Act. They cover both land and 'new rights' over land (as defined in [section 142\(4\)](#)) and, in the circumstances described in section [142\(1\)\(b\) and \(c\)](#), their exercise may extend outside the urban development corporation's area.

131. What compulsory purchase powers are available to urban development corporations?

- 131.1 It is for an urban development corporation to decide how best to use its land acquisition powers, having regard to this guidance. The compulsory purchase powers available to urban development corporations to assist with urban regeneration are expressed in broad terms.

131.2 While an urban development corporation should acquire land by agreement wherever possible, it is recognised that this may not always be practicable, for example, in terms of timings for the delivery of a scheme. It is for an urban development corporation to decide how best to use its land acquisition powers and it may sometimes be necessary to use its power to make a compulsory purchase order at the same time as attempting to purchase land by agreement.

132. Do urban development corporations have to predetermine what development will take place on land before it is acquired?

132.1 To achieve its objectives, it may sometimes be necessary for an urban development corporation to assemble land for which it has wider comprehensive development objectives. Urban development corporations are expected to achieve their objectives largely by stimulating and attracting greater private sector investment and market confidence. Although they have the power to undertake extensive development themselves, they may procure development partners to achieve their objectives. Urban development corporation ownership of land can also stimulate confidence that regeneration will take place and help to secure investment. Urban development corporations can often bring about regeneration by assembling land and providing infrastructure over a wide area to secure or encourage its development by others.

133. What will the confirming authority consider when reaching a decision on whether to confirm a compulsory purchase order made under section 142 of the Local Government, Planning and Land Act 1980?

133.1 In reaching a decision on whether to confirm a compulsory purchase order made under [section 142 of the Act](#), the confirming authority will:

- take into account the statutory objectives of the urban development corporation set out in [What is the purpose of an urban development corporation?](#)
- consider amongst other things
 - i. whether the urban development corporation has demonstrated that the land is needed to further its objectives
 - ii. whether the proposed use of the land by the urban development corporation would be in accordance with the powers in relation to land that it has under section 136
 - iii. what alternative proposals (if any) have been put forward by the owners of the land or other persons for regeneration
 - iv. whether regeneration is on balance more likely to be achieved if the land is acquired by the urban development corporation
 - v. the recent history and condition of the land
 - vi. any comprehensive master-planning or development proposals for the urban development corporation area

133.2 Where a landowner indicates a willingness to implement a scheme on their land in accordance with the objectives of the urban development corporation then, subject to the further guidance in this section, the urban development corporation would be expected to attempt to secure a commitment in writing from the landowner that their scheme will be delivered in a timely manner.

- 133.3 If it is not possible to secure such a commitment, and otherwise attempts at the voluntary acquisition of the land have been unsuccessful, the urban development corporation may consider it expedient to make a compulsory purchase order providing there is a compelling case in the public interest to do so in order to secure the relevant land for appropriate regeneration and to enable timely delivery.
- 133.4 However, there may also be instances where, notwithstanding a landowner's willingness to take forward a scheme in line with the general objectives of the urban development corporation, it is considered by the urban development corporation that it would be more appropriate for it to acquire the land. For example, where the urban development corporation is looking to include the land as part of a comprehensive scheme and only through fully assembling all of the necessary land will the objectives of the urban development corporation be delivered most effectively.
- 133.5 It may be counterproductive for an urban development corporation to predetermine what private sector development should take place before land has been assembled.
- 133.6 Land will often be suitable for a variety of uses and the market may change rapidly as implementation proceeds.
- 133.7 Nevertheless, when making a compulsory purchase order, an urban development corporation will be expected to show there is a compelling case in the public interest which is supported by reasonably firm proposals or a long-term strategic need for the land and a clearly defined objective which is supported by the planning framework for the urban development corporation area.
- 134. What level of detail do urban development corporations need to provide when making a compulsory purchase order?**
- 134.1 The confirming authority recognises that given their specific duty to regenerate their areas, it will not always be possible for urban development corporations to have specific, detailed proposals for the land included in a compulsory purchase order beyond their general planning framework for the regeneration of the area.
- 134.2 The confirming authority will expect the statement of reasons accompanying the submission of the compulsory purchase order to include a summary of the planning framework for the land concerned in sufficient detail to give reassurance of the use of the land following acquisition and the justification for the timing of the acquisition.
- 134.3 It is not expected that all impediments to the delivery of a scheme will have been resolved or overcome by the point at which the decision on the confirmation of compulsory purchase order is made. However, it may not always be feasible or sensible to wait for all impediments to the delivery of a proposed scheme to be resolved or overcome by the point at which the compulsory purchase order is made.

For example, it may be necessary to assemble land via the making of a compulsory purchase order before resolving or overcoming impediments to maximise the opportunities that exist for the area.

134.4 In all cases, urban development corporations will be expected to:

- (a) provide evidence to support the case for the acquisition in the context of its development strategy
- (b) demonstrate there is a compelling case in the public interest for the making of a compulsory purchase order and that there is a real prospect of the land being brought into beneficial use within a reasonable timeframe
- (c) where impediments are yet to be resolved or overcome, show why compulsory acquisition is necessary at that point in time to maximise the opportunities which exist for the regeneration of the relevant urban development corporation area, explain how the use of the powers would help promote the achievement of the urban development corporation objectives, and show that the implementation of the scheme following the confirmation decision being made is unlikely to be blocked by any physical or legal impediments
- (d) evidence why it has not been possible, or would not be practicable, to secure the commitments of the landowner for the regeneration of the relevant land in accordance with the objectives and timescales of the urban development corporation without the making of a compulsory purchase order or otherwise securing the acquisition of the land by voluntary agreement

135. What does the confirming authority have to consider where there are other proposals for the use of land contained within a compulsory purchase order?

135.1 Where the owners of land or other parties have their own proposals for the use or development of land contained within a compulsory purchase order, it will be necessary for the confirming authority to consider whether these are capable of being or likely to be, implemented, taking into account the planning position, how long the land has been unused, and how the alternative proposals may conflict with the objectives of the urban development corporation.

135.2 Another consideration will be whether the alternative proposals are capable of being or likely to be implemented in a timely manner, taking into account other relevant factors including:

- the land's ownership and the ability for the current ownership to bring forward the relevant proposal
- any previous attempts to bring forward regeneration on the land

- the condition of the relevant land

135.3 However, as outlined above, there may be circumstances where, despite there being a reasonable alternative proposal, acquisition by the urban development corporation may be appropriate and in the public interest to deliver most effectively the objectives of the urban development corporation.

136. When an urban development corporation submits a compulsory purchase order for confirmation can they include a direction applying section 14A of the Land Compensation Act 1961?

136.1 Where an urban development corporation submits a compulsory purchase order to the confirming authority which is made under section 142 of the Local Government, Planning and Land Act 1980, it may include in the order a direction that compensation is to be assessed in accordance with section 14A of the Land Compensation Act 1961 (cases where prospect of planning permission to be ignored) providing provision of affordable housing is to be facilitated by the scheme underlying the compulsory purchase order (see [Section 27: Compulsory purchase orders which include directions to remove the prospects of planning permission from the assessment of compensation](#)).

137. What is the effect of the confirmation of an urban development corporation compulsory purchase order with a direction applying section 14A of the Land Compensation Act 1961 include?

137.1 Where an urban development corporation compulsory purchase order is confirmed with a direction applying section 14A of the Land Compensation Act 1961 included, the effect will be as described in [What is the effect of the confirmation of a compulsory purchase order with a direction applying section 14A of the Land Compensation Act 1961 included?](#).

Section 5: New Town Development Corporations

138. What is the purpose of a new town development corporation?

- 138.1 A new town development corporation can be established under [section 3 of the New Towns Act 1981](#) for the purposes of developing a new town. The objects of a new town development corporation, as set out in [section 4\(1\)](#) of the New Towns Act 1981, are to secure the laying out and development of the new town in accordance with proposals approved under the New Towns Act 1981. In pursuing those objects, new town development corporations must aim to contribute to the achievement of sustainable development, having particular regard to the desirability of good design (see [sections 4\(1A\) and \(1B\) of the New Towns Act 1981](#)).
- 138.2 An area can be designated as the site of a proposed new town under [section 1](#) of the New Towns Act 1981 where the Secretary of State is satisfied, after consulting with any local authorities who appear to the Secretary of State to be concerned, that it is expedient in the national interest for that area to be developed as a new town by a new town development corporation.
- 138.3 The development of new towns has traditionally been overseen by the Secretary of State who has responsibility for housing and planning matters. However, under [section 1A](#) of the New Towns Act 1981 the Secretary of State may appoint one or more local authorities (an 'oversight authority') to oversee the development of the area as a 'locally-led' new town. Where an oversight authority is appointed a number of functions that would otherwise be exercisable by the Secretary of State are instead exercisable by the oversight authority – as provided for by the [New Towns Act 1981 \(Local Authority Oversight\) Regulations 2018](#).
- 138.4 The Government has published [separate guidance](#) on the process for designating a new town and establishing locally-led new town development corporations.

139. What powers does a new town development corporation have under the New Towns Act 1981?

- 139.1 Subject to any restrictions imposed under [section 5](#) of the New Towns Act 1981, [section 4\(2\)](#) gives new town development corporations the power, among other things, to acquire, hold, manage and dispose of land and other property, and generally to do anything necessary or expedient for the purposes or incidental purposes of the new town.

140. What powers does a new town development corporation have to acquire land?

- 140.1 The powers of new town development corporations to acquire land are set out in [section 10 of the New Towns Act 1981](#). They provide for a new town development corporation to acquire (whether by agreement or by compulsion):
- any land within the area of the new town, whether or not it is proposed to develop that land

- any land adjacent to that area which they require for purposes connected with the development of the new town
- any land, whether adjacent to that area or not, which they require for the provision of services for the purposes of the new town

140.2 The compulsory purchase powers provided for by [section 10 of the New Towns Act 1981](#) apply to all new town development corporations – including in the case of locally-led new towns. Compulsory purchase orders made by new town development corporations (regardless of whether the new town is nationally or locally-led) are subject to confirmation by the Secretary of State who has responsibility for housing and planning matters.

140.3 For nationally-led new towns the new town development corporation must obtain consent from the Secretary of State who has responsibility for housing and planning matters to acquire land by agreement. For locally-led new towns the new town development corporation must obtain consent to acquire land by agreement from the oversight authority, as provided by the New Towns Act 1981 (Local Authority Oversight) Regulations 2018.

141. What is the procedure for a new town development corporation acquiring land compulsorily by a compulsory purchase order?

141.1 The procedure for making a compulsory purchase order under the New Towns Act 1981 is set out in [Schedule 4](#) to that Act.

142. In what circumstances can new town development corporations use their compulsory purchase powers?

142.1 It is for new town development corporations to decide how best to use their land acquisition powers, having regard to this guidance. The compulsory purchase powers available to a new town development corporation in [section 10](#) of the New Towns Act 1981 are expressed in broad terms, and are intended to assist with land assembly that is necessary to carry out its statutory objects of securing the laying out and development of a new town.

142.2 While a new town development corporation should acquire land by agreement wherever possible, it is recognised that this may not always be practicable, for example, in terms of timings for the delivery of the new town. It is for a new town development corporation to decide how best to use its land acquisition powers and it may sometimes be necessary to use its power to make a compulsory purchase order at the same time as attempting to purchase land by agreement.

142.3 New town development corporation ownership of land early in the development process may assist with the proper planning for, infrastructure provision in and sustainable development of, a new town – in pursuit of its statutory objects under [sections 4\(1\), \(1A\) and \(1B\)](#) of the New Towns Act 1981.

Specifically, it may help to ensure that developments brought forward using these powers are planned, designed and delivered in a sustainable and holistic way, in which the provision of infrastructure and community facilities are coordinated with the provision of new homes. New town development corporation ownership of land may also provide greater certainty of delivery: helping to stimulate confidence that the new town will proceed, helping to secure infrastructure investment, and thereby helping to promote development.

143. Can new town development corporations acquire land even if they have no specific development proposals in place?

143.1 [Section 10\(1\) of the New Towns Act 1981](#) enables new town development corporations to acquire land (compulsorily or by agreement) within the area of the new town whether or not it is proposed to be developed.

143.2 The Secretary of State who has responsibility for housing and planning matters recognises that to achieve its statutory objects, it will not always be possible for a new town development corporation to have specific, detailed proposals in place for the land included in a compulsory purchase order.

144. What level of detail do new town development corporations need to provide when seeking an order?

144.1 Given their scale, new towns are likely to be developed over an extended period of time, during which market conditions may change. In this context, the Secretary of State who has responsibility for housing and planning matters recognises that it will not always be possible or desirable for new town development corporations to have fully worked up, and secured approval for, detailed development proposals prior to proceeding with a compulsory purchase order. While the Secretary of State who has responsibility for housing and planning matters will need to be reassured that there is a reasonable prospect of the scheme being funded and the development proceeding, it is also recognised that funding and delivery details will not necessarily have been fully worked up at that stage.

144.2 It is not expected that all impediments to the delivery of a scheme will have been resolved or overcome by the point at which the decision on the confirmation of compulsory purchase order is made. However, it may not always be feasible or sensible to wait for all impediments to the delivery of a proposed scheme to be resolved or overcome by the point at which the compulsory purchase order is made. For example, it may be necessary to assemble land before overcoming impediments to maximise the opportunities that exist for taking forward development proposals relating to a new town.

144.3 Where a new town development corporation does not have detailed proposals for the order lands, it will still be expected to demonstrate a compelling case for acquisition in the context of the planning framework that will guide development of the new town. The new town development corporation needs to be able to show that using compulsory purchase powers is necessary in the public interest and that the acquisition will support investment in and development of the new town.

144.4 The Secretary of State who has responsibility for housing and planning matters will expect the statement of reasons accompanying the submission of the compulsory purchase order to include a summary of the planning framework for the development of the new town in sufficient detail to give reassurance of the use of the land following acquisition and the justification for the timing of the acquisition. Furthermore, that the new town development corporation will be in a position to present evidence at inquiry to support its case for compulsory acquisition.

144.5 While confirmation of a compulsory purchase order is a separate and distinct process from that of [designating a new town](#), the Secretary of State who has responsibility for housing and planning matters acknowledges that evidence used to support the case for designation in the national interest may also be relevant to justifying the use of compulsory purchase powers in the public interest under [section 10 of the New Towns Act 1981](#).

145. What factors will the Secretary of State take into account in deciding whether to confirm a compulsory purchase order under section 10 of the New Towns Act 1981?

145.1 Any decision about whether or not to confirm a compulsory purchase order will be made on its individual merits, but the factors which the Secretary of State who has responsibility for housing and planning matters can be expected to consider include:

- the statutory objects of the new town development corporation
- whether the purpose(s) for which the order lands are being acquired by the new town development corporation fits with the planning framework for the new town area
- whether there is a compelling case in the public interest for the making of the compulsory purchase order
- whether the new town development corporation has satisfactorily demonstrated that the order lands are needed to support the overall development of the new town
- the appropriateness of alternative proposals (if any) put forward by the owners of the land or other persons
- where impediments are yet to be resolved or overcome, why compulsory acquisition is necessary at that point in time and how the implementation of the new town scheme following the confirmation decision being made is unlikely to be blocked by any physical or legal impediments

146. What does the Secretary of State have to consider where there are other proposals for the use of land contained within a compulsory purchase order?

146.1 Where objectors put forward alternative proposals for the use or development of land contained within a compulsory purchase order, considerations for the Secretary of State who has responsibility for housing and planning matters will include:

- whether the alternative proposals are likely to be implemented, taking into account the planning position and their promoter's track record of delivering development proposals on the land
- how the alternative proposals may conflict with objectives of the new town development corporation
- how the alternative proposals may, if implemented, affect
 - the delivery of a new town on land designated for that purpose
 - the new town development corporation's ability to fulfil its statutory objects (including in relation to achieving sustainable development and good design), and/or the purposes for which it was established

146.2 Another consideration will be whether the alternative proposals are capable of being or likely to be implemented in a timely manner, taking into account other relevant factors including:

- the land's ownership and the ability for the current ownership to bring forward the relevant proposal
- the condition of the relevant land

146.3 However, as outlined above, there may be circumstances where, despite there being a reasonable alternative proposal, acquisition by a new town development corporation may be appropriate and in the public interest to deliver most effectively the objectives of the new town development corporation.

147. How can new town development corporations dispose of the acquired land?

147.1 New town development corporations may dispose of land in such a manner as they deem expedient for securing the development of the new town or for purposes connected with the development of the new town (see [section 17 of the New Towns Act 1981](#)).

147.2 [Section 18 of the New Towns Act 1981](#) sets out certain requirements in respect of persons who were previously living or carrying on a business on land acquired by the new town development corporation. If such persons wish to obtain accommodation on land belonging to the new town development corporation and are willing to comply with any requirements of the corporation as to its development and use, section 18 requires the corporation, 'so far as practicable, to give them the opportunity to do so.

148. When a new town development corporation submits a compulsory purchase order for confirmation can they include a direction applying section 14A of the Land Compensation Act 1961?

- 148.1 Where a new town development corporation submits a compulsory purchase order to the Secretary of State who has responsibility for housing and planning matters under Part 1 of Schedule 4 to the New Towns Act 1981, it may include in the order a direction that compensation is to be assessed in accordance with section 14A of the Land Compensation Act 1961 (cases where prospect of planning permission to be ignored) providing provision of affordable housing is to be facilitated by the new town (see [Section 27: Compulsory purchase orders which include directions to remove the prospects of planning permission from the assessment of compensation](#)).
- 148.2 Where a new town development corporation submits for confirmation a compulsory purchase order which includes a direction that applies [section 14A of the Land Compensation Act 1961](#), the provisions of [paragraph 5A in Schedule 4 to the New Towns Act 1981](#) will apply or [paragraph 5A of Schedule 5 to the New Towns Act 1981](#) where the land being acquired is operational land belonging to a statutory undertaker.

149. What is the effect of the confirmation of a new town development corporation compulsory purchase order with a direction applying section 14A of the Land Compensation Act 1961 included?

- 149.1 Where a new town development corporation compulsory purchase order is confirmed with a direction applying [section 14A of the Land Compensation Act 1961](#) included, the effect will be as described in [What is the effect of the confirmation of a compulsory purchase order with a direction applying section 14A of the Land Compensation Act 1961 included?](#).

150. How can a new town development corporation include a direction applying section 14A of the Land Compensation Act 1961 in a compulsory purchase order?

- 150.1 The relevant wording for including in a new town development corporation compulsory purchase order a direction which applies [section 14A of the Land Compensation Act 1961](#) is set out in the relevant optional paragraphs in [Forms 2 - 3 in the Schedule to the New Towns \(Compulsory Purchase of Land\) Regulations 1977 \(as amended\)](#)¹⁷.

¹⁷ The New Towns (Compulsory Purchase of Land) Regulations 1977 were amended by the New Towns (Compulsory Purchase of Land) (Amendment) Regulations 2024

151. When a new town development corporation submits an application under Part 1 of Schedule 5 to the New Towns Act 1981, can it include a request for a direction to apply section 14A of the Land Compensation Act 1961?

151.1 Where a new town development corporation submits an application under [Part 1 of Schedule 5 to the New Towns Act 1981](#), it may include in the application a request for a direction to apply [section 14A of the Land Compensation Act 1961](#) providing provision of affordable housing is to be facilitated by the new town (see [Section 27: Compulsory purchase orders which include directions to remove the prospects of planning permission from the assessment of compensation](#)). Where such an application is submitted by a new town development corporation, the provisions of [paragraph 5A in Schedule 5 to the New Towns Act 1981](#) will apply.

152. What is the effect of a decision by the Secretary of State and appropriate Minister to make a compulsory purchase order on an application submitted under Part 1 of Schedule 5 to the New Towns Act 1981 and included within it a direction applying section 14A of the Land Compensation Act 1961?

152.1 Where the Secretary of State who has responsibility for housing and planning matters and appropriate Minister decide to make a compulsory purchase order on an application submitted under [Part 1 of Schedule 5 to the New Towns Act 1981](#) and included within it is a direction which applies [section 14A of the Land Compensation Act 1961](#), the effect will be as described in [What is the effect of the confirmation of a compulsory purchase order with a direction applying section 14A of the Land Compensation Act 1961 included?](#).

153. How can a new town development corporation include a request for a direction to apply section 14A of the Land Compensation Act 1961 in an application under Part 1 of Schedule 5 to the New Towns Act 1981?

153.1 The relevant wording for requesting a direction to apply [section 14A of the Land Compensation Act 1961](#) in an application under [Part 1 of Schedule 5 to the New Towns Act 1981](#) is set out in the relevant optional paragraphs in [Form 7 in the Schedule to the New Towns \(Compulsory Purchase of Land\) Regulations 1977 \(as amended\)](#)¹⁸.

¹⁸ The New Towns (Compulsory Purchase of Land) Regulations 1977 were amended by the The New Towns (Compulsory Purchase of Land) (Amendment) Regulations 2024

Section 6: Mayoral Development Corporations

154. What is the purpose of a Mayoral development corporation?

- 154.1 A Mayoral development corporation is established under [Chapter 2 in Part 8 of the Localism Act 2011](#) (“the 2011 Act”) with the statutory object of securing the regeneration of the area for which the Mayoral development corporation has been established ([section 201\(1\) of the 2011 Act](#)). Provision for establishing Mayoral development corporations was originally for Greater London, however, the ability to establish Mayoral development corporations has been extended to several combined authorities in other areas of England.
- 154.2 [Section 197\(3\) of the 2011 Act](#) provides the rationale for why an area may be designated as a Mayoral development area by the relevant Mayor. In relation to Greater London, it is if the Mayor of London considers the designation of the area is expedient for furthering any one or more of the Greater London Authority’s principal purposes i.e.
- (a) promoting economic development and wealth creation in Greater London
 - (b) promoting social development in Greater London
 - (c) promoting the improvement of the environment in Greater London
- 154.3 A similar requirement exists for other Mayoral development corporation areas, i.e. the relevant Mayor must consider that the designation of the area is expedient for the purposes of economic development and regeneration in the relevant area (for example, see the [York and North Yorkshire Combined Authority Order 2023](#) or the [North East Mayoral Combined Authority \(Establishment and Functions\) Order 2024](#)).
- 154.4 A Mayoral development area is likely to have been designated because it contains significant areas of land not in effective use and that may be unattractive to existing or potential developers, investors and occupiers. The acquisition of land and buildings, if necessary by compulsory purchase, is one of the main ways in which a Mayoral development corporation can take effective steps to secure its statutory objectives.
- 154.5 When considering the powers of a Mayoral development corporation, it is important to consider the terms of the 2011 Act alongside any relevant statutory instrument that has established the particular Mayoral development corporation. The relevant statutory instrument may amend or supplement the terms of the 2011 Act and the relevant powers of that particular Mayoral development corporation.

155. What powers does a Mayoral development corporation have under the Chapter 2 in Part 8 of the Localism Act 2011?

- 155.1 As a starting point, under [section 201\(2\) of the 2011 Act](#), a Mayoral development corporation may do anything it considers appropriate for the purposes of its object (i.e. securing the regeneration of its area) or for purposes incidental to those purposes. A Mayoral development corporation may also have further specific powers such as acquiring land by agreement in its area or elsewhere. Likewise, it may have powers to acquire land in its area by compulsory purchase.

156. What compulsory purchase powers are available to Mayoral development corporations?

- 156.1 Under [section 207 of the 2011 Act](#), a Mayoral development corporation can acquire land and rights including compulsorily if authorised to do so by the Secretary of State who has responsibility for housing and planning matters.
- 156.2 [Section 206 of the 2011 Act](#) sets out the powers of a Mayoral development corporation in relation to land in broad terms. It is for a Mayoral development corporation to decide how best to use its land acquisition powers with regard to its powers in relation to land under section 206 and its overall object under section 201 of the Act to secure the regeneration of its area.
- 156.3 Various parts of the [Housing and Regeneration Act 2008](#) apply to Mayoral development corporations in relation to the use of their compulsory purchase power as they do to the compulsory acquisition of land by Homes England.
- 156.4 While a Mayoral development corporation should acquire land by agreement wherever possible, it is recognised this may not always be practicable, for example, in terms of timings for the delivery of a scheme. It may sometimes be necessary for a Mayoral development corporation to use its compulsory purchase power to make a compulsory purchase order at the same time as attempting to purchase an interest in land by agreement.

157. Do Mayoral development corporations have to predetermine what development will take place on land before it is acquired?

- 157.1 To achieve its objectives, it may sometimes be necessary for a Mayoral development corporation to assemble land for which it has wider comprehensive development objectives. Mayoral development corporations are expected to achieve their objectives largely by stimulating and attracting greater private sector investment and market confidence. Although they have the power to undertake extensive development themselves, they may procure development partners to achieve their objectives. Mayoral development corporation ownership of land can also stimulate confidence that regeneration will take place and help to secure investment.

Mayoral development corporations can often bring about regeneration by assembling land and providing infrastructure over a wide area to secure or encourage its development by others.

158. What will the Secretary of State consider when reaching a decision on whether to confirm a compulsory purchase order made under section 207 of the Localism Act 2011 by a Mayoral development corporation?

- 158.1 In reaching a decision on whether to confirm a compulsory purchase order made under [section 207 of the 2011 Act](#), the Secretary of State who has responsibility for housing and planning matters will:
- take into account the statutory objectives of the Mayoral development corporation set out in [What is the purpose of a Mayoral development corporation?](#) and the powers that the Mayoral development corporation has in relation to land set out under [section 206 of the 2011 Act](#)
 - consider amongst other things:
 - i) whether the Mayoral development corporation has demonstrated that the land is needed to further those objectives
 - ii) whether the proposed use of the land by the Mayoral development corporation would be in accordance with the powers in relation to land that it has under [section 206 of the 2011 Act](#)
 - iii) what alternative proposals (if any) have been put forward by the owners of the land or other persons for regeneration
 - iv) whether regeneration is on balance more likely to be achieved if the land is acquired by the Mayoral development corporation
 - v) the recent history and state of the land
 - vi) any comprehensive master-planning or development proposals for the Mayoral development area
- 158.2 Where a landowner indicates a willingness to implement a scheme on their land in accordance with the objectives of the Mayoral development corporation then, subject to the further guidance in this section, the Mayoral development corporation would be expected to try to secure a commitment in writing from the landowner that their scheme will be delivered in a timely manner. If it is not possible to secure such a commitment, and otherwise attempts at the voluntary acquisition of the land have been unsuccessful, the Mayoral development corporation may consider it expedient to make a compulsory purchase order providing there is a compelling case in the public interest to secure the relevant land for appropriate regeneration and to enable timely delivery.
- 158.3 However, there may also be instances where, notwithstanding a landowner's willingness to take forward a scheme in line with the general objectives of the Mayoral development corporation, it is considered by the Mayoral development corporation that it would be more appropriate for it to acquire the land.

For example, where the Mayoral development corporation is looking to include the land as part of a comprehensive scheme and only through fully assembling all of the necessary land will the objectives of the Mayoral development corporation be delivered most effectively.

- 158.4 It may be counterproductive for a Mayoral development corporation to predetermine what private sector development should take place before land has been assembled. Land will often be suitable for a variety of uses and the market may change rapidly as implementation proceeds.
- 158.5 Nevertheless, when using its compulsory purchase powers, a Mayoral development corporation will be expected to show there is a compelling case in the public interest for the compulsory acquisition which is supported by reasonably firm proposals or a long-term strategic need for the land and a clearly defined objective which is supported by the planning framework for the urban development corporation area.

159. What level of detail do Mayoral development corporations need to provide when making a compulsory purchase order?

- 159.1 The Secretary of State who has responsibility for housing and planning matters recognises that given their specific duty to regenerate their areas, it will not always be possible for Mayoral development corporations to have specific, detailed proposals for the land included in a compulsory purchase order beyond their general framework for the regeneration of the area.
- 159.2 The Secretary of State who has responsibility for housing and planning matters will expect the statement of reasons accompanying the submission of the compulsory purchase order to include a summary of the planning framework for the land concerned in sufficient detail to give reassurance of the use of the land following acquisition and the justification for the timing of the acquisition.
- 159.3 It is not expected that all impediments to delivery will have been resolved or overcome by the point at which the decision on confirmation of compulsory purchase order is made. However, it may not always be feasible or sensible to wait for all impediments to the delivery of a proposed scheme to be resolved or overcome by the point at which the compulsory purchase order is made. For example, it may be necessary to assemble land before resolving or overcoming impediments in order to maximise the opportunities that exist for the area and to attract investment.
- 159.4 In all cases, Mayoral development corporations will be expected to:
 - (a) provide evidence to support the case for the acquisition in the context of its development strategy

- (b) demonstrate there is a compelling case in the public interest for exercising compulsory acquisition powers and that there is a real prospect of the land being brought into beneficial use within a reasonable timeframe
- (c) where impediments are yet to be resolved or overcome, show why compulsory acquisition is necessary at that point in time to maximise the opportunities which exist for the regeneration of the relevant Mayoral development area, explain how the use of the powers would help promote the achievement of the Mayoral development corporation objectives, and show that the implementation of the scheme following the confirmation decision being made is unlikely to be blocked by any physical or legal impediments
- (d) evidence why it has not been possible, or would not be practicable, to secure the commitments of the landowner for the regeneration of the relevant land in accordance with the objectives and timescales of the Mayoral development corporation without the making of a compulsory purchase order or otherwise securing the acquisition of the land by voluntary agreement

160. What does the Secretary of State have to consider where there are other proposals for the use of land contained within a compulsory purchase order?

- 160.1 Where the owners or other parties have their own proposals for the use or development of land contained within a compulsory purchase order, it will be necessary for the Secretary of State who has responsibility for housing and planning matters to consider whether these are capable of being or likely to be, implemented, taking into account the planning position, how long the land has been unused, and how the alternative proposals may conflict with the objectives of the Mayoral development corporation.
- 160.2 Another consideration will be whether the alternative proposals are capable of being or likely to be implemented in a timely manner, taking into account other relevant factors including:
- the land's ownership and the ability for the current ownership to bring forward the relevant proposal
 - any previous attempts to bring forward regeneration on the land
 - the condition of the relevant land
- 160.3 However, as outlined above, there may be circumstances where, despite there being a reasonable alternative proposal, acquisition by the Mayoral development corporation may be appropriate and in the public interest in order to deliver most effectively the objectives of the Mayoral development corporation.

161. When a Mayoral development corporation submits a compulsory purchase order for confirmation can they include a direction applying section 14A of the Land Compensation Act 1961?

161.1 Where a Mayoral development corporation submits a compulsory purchase order to the Secretary of State who has responsibility for housing and planning matters which is made under [section 207 of the 2011 Act](#), it may include in the order a direction that compensation is to be assessed in accordance with [section 14A of the Land Compensation Act 1961](#) (cases where prospect of planning permission to be ignored) providing provision of affordable housing is to be facilitated by the scheme underlying the compulsory purchase order (see [Section 27: Compulsory purchase orders which include directions to remove the prospects of planning permission from the assessment of compensation](#)).

162. What is the effect of the confirmation of a Mayoral development corporation compulsory purchase order with a direction applying section 14A of the Land Compensation Act 1961 included?

162.1 Where a Mayoral development corporation compulsory purchase order is confirmed with a direction applying [section 14A of the Land Compensation Act 1961](#) included, the effect will be as described in [What is the effect of the confirmation of a compulsory purchase order with a direction applying section 14A of the Land Compensation Act 1961 included?](#).

Section 7: Powers of local housing authorities for housing purposes and listed buildings in slum clearances

Housing Act 1985: Part 2, Provision of housing accommodation

163. What can the power under Part 2 of the Housing Act 1985 be used for?

- 163.1 [Section 17 of the Housing Act 1985](#) empowers local housing authorities to acquire land, houses or other properties by compulsion for the provision of housing accommodation. Acquisition must achieve a quantitative or qualitative housing gain.
- 163.2 The main uses of this power have been to assemble land for housing and ancillary development, including the provision of access roads; to bring empty properties into housing use; and to improve substandard or defective properties. Current practice is for authorities acquiring land or property compulsorily to dispose of it to the private sector, housing associations or owner-occupiers.

164. What information should be included with applications for confirmation of orders under section 17?

- 164.1 When applying for the confirmation of a compulsory purchase order made under [Part 2 of the Housing Act 1985](#) the authority should include in its statement of reasons information regarding needs for the provision of further housing accommodation in its area. This information should normally include:
- the total number of dwellings in the district
 - the total number of substandard dwellings (i.e. the quantity of housing with Category 1 hazards as defined in [section 2 of the Housing Act 2004](#))
 - the total number of households and the number for which, in the authority's view, provision needs to be made
 - details of the authority's housing stock by type, particularly where the case for compulsory purchase turns on need to provide housing of particular type
 - where a compulsory purchase order is made with a view to meeting special housing needs, e.g., of the elderly, specific information about those needs;
 - where the authority proposes to dispose of the land or property concerned, details of the prospective purchaser, their proposals for the provision of housing accommodation and when this will materialise, and details of any other statutory consents required
 - where it is not possible to identify a prospective purchaser at the time a compulsory purchase order is made, details of the authority's proposals to dispose of the land or property, its grounds for considering that this will achieve the provision of housing accommodation and when the provision will materialise

- where the authority has alternative proposals, it will need to demonstrate that each alternative is preferable to any proposals advanced by the existing owner

165. When does development on land to be acquired for housing development under section 17 need to be completed?

- 165.1 [Section 17\(4\) of the Housing Act 1985](#) provides that the Secretary of State who has responsibility for housing and planning matters (i.e. the confirming authority) may not confirm a compulsory purchase order unless they are satisfied that the land is likely to be required within 10 years of the date the order is confirmed.

166. Will the confirming authority refuse to confirm an order made under housing powers if it could have been made under planning powers instead?

- 166.1 Where an authority has a choice between the use of housing or planning compulsory purchase powers the confirming authority will not refuse to confirm a compulsory purchase order solely on the grounds that it could have been made under another power.
- 166.2 Where land is being assembled under planning powers for housing development, the confirming authority will have regard to the policies set out in this section.

167. When is the acquisition of empty properties for housing use justified?

- 167.1 Compulsory purchase of empty properties may be justified as a last resort in situations where there appears to be no other prospect of a suitable property being brought back into residential use. Authorities will first wish to encourage the owner to restore the property to full occupation. However, cases may arise where the owner cannot be traced and therefore use of compulsory purchase powers may be the only way forward.
- 167.2 When considering whether to confirm such an order the confirming authority will normally wish to know:
- how long the property has been vacant
 - what steps the authority has taken to encourage the owner to bring it into acceptable use and the outcome
 - what works have been carried out by the owner towards its reuse for housing purposes

168. When is the acquisition of substandard properties justified?

- 168.1 Compulsory purchase of substandard properties may be justified as a last resort in cases where:
- a clear housing gain will be obtained
 - the owner of the property has failed to maintain it or bring it to an acceptable standard

- other statutory measures, such as the service of statutory notices, have not achieved the authority's objective of securing the provision of acceptable housing accommodation

168.2 However, the confirming authority would not expect an owner-occupied house, other than a house in multiple occupation, to be included in a compulsory purchase order unless the defects in the property adversely affected other housing accommodation.

168.3 In considering whether to confirm such a compulsory purchase order the confirming authority will wish to know:

- what the alleged defects in the order property are
- what other steps the authority has taken to remedy matters and the outcome
- the extent and nature of any works carried out by the owner to secure the improvement and repair of the property
- the authority's proposals regarding any existing tenants of the property

169. Are there any limitations on the use of the power under Part 2 of the Housing Act 1985 to acquire property for the purpose of providing housing accommodation?

169.1 The powers do not extend to the acquisition of property for the purpose of improving the management of housing accommodation. A qualitative or quantitative housing gain must be achieved.

169.2 Following the judgment in the case of *R v Secretary of State for the Environment ex parte Royal Borough of Kensington and Chelsea* (1987) it may, however, be possible for authorities to resort to compulsory purchase under Part 2 where harassment or other grave conduct of a landlord has been such that proper housing accommodation could not be said to exist at the time when the authority resolved to make the compulsory purchase order. Such an order could be justified as achieving a housing gain.

170. Is consent required for the onward disposal of tenanted properties?

170.1 Consent may be required for the onward disposal of tenanted properties which have been compulsorily purchased. Before a local authority can dispose of housing occupied by secure tenants to a private landlord it must consult the tenants in accordance with [section 106A of the Housing Act 1985](#).

170.2 The Secretary of State who has responsibility for housing and planning matters cannot give consent for the disposal if it appears to them that a majority of the tenants are opposed. An authority contemplating onward sale should, therefore, ensure in advance that it has the tenants' support.

171. Can the confirming authority confirm an order where an acquiring authority has given an undertaking that it will not implement the order if the owner subsequently agrees to improve the property?

171.1 Such undertakings are a matter between the acquiring authority and owner, and the confirming authority has no involvement. A compulsory purchase order which is the subject of such an agreement will be considered by the confirming authority on its individual merits. The confirming authority has no powers to confirm an order subject to conditions.

Housing Act 1985: Part 9, Slum clearance

172. What information needs to be submitted with an application for confirmation of a clearance area compulsory purchase order?

172.1 In addition to the [general requirements](#), an authority submitting an order under section 290 of Part 9 of the Housing Act 1985 should only do so after considering all possible options for the area and will be expected to deal with the following matters in their statement of reasons:

- the declaration of the clearance area and its justification including a statement that all other possible options to maintain the clearance area have been considered
- the standard of buildings in the clearance area: incorporating a statement of the authority's principal grounds for being satisfied that the buildings are substandard
- the justification for acquiring any added lands included in the order
- proposals for rehousing and for relocating commercial and industrial premises affected by clearance
- the proposed after use of the cleared site
- where it is not practicable to table evidence of planning permission, the authority should demonstrate that their proposals are acceptable in planning terms and that there appear to be no grounds for thinking that planning permission will not materialise
- how they have fully considered the economic aspect of clearance and that they have responded to any submissions made by objectors regarding that

172.2 General guidance on clearance areas can be found in [Housing health and safety rating system enforcement guidance](#).

172.3 Further information on listed buildings and unlisted buildings in conservation areas which are included in [clearance compulsory purchase orders](#).

Local Government and Housing Act 1989: Part 7, Renewal Areas

173. What can the powers under Part 7 of the Local Government and Housing Act 1989 be used for?

173.1 [Section 93\(2\) of the Local Government and Housing Act 1989](#) can be used by authorities:

- to acquire by agreement or compulsorily premises consisting of, or including, housing accommodation to achieve or secure their improvement or repair
- for their proper and effective management and use
- for the wellbeing of residents in the area

They may provide housing accommodation on land so acquired.

173.2 Authorities acquiring properties compulsorily should consider subsequently disposing of them to owner occupiers, housing associations or other private sector interests in line with their strategy for the Renewal Area. Where property in need of renovation is acquired, work should be completed as quickly as possible in order not to blight the area and undermine public confidence in the overall Renewal Area strategy. In exercising their powers of acquisition authorities will need to bear in mind the financial and other (e.g. manpower) resources available to them and to other bodies concerned.

173.3 [Section 93\(4\) of the Local Government and Housing Act 1989](#) can be used by authorities to acquire by agreement or compulsorily land and buildings for the purpose of improving the amenities in a Renewal Area. This power also extends to acquisition where other persons will carry out the scheme. Examples might include the provision of public open space or community centres either by the authority or by a housing association or other development partner. Demolition of properties should be considered as a last resort only after all other possible options have been considered. In these exceptional cases regard should be had to any adverse effects on industrial or commercial concerns.

173.4 The powers in [sections 93\(2\) and 93\(4\) of the Local Government and Housing Act 1989](#) are additional powers and are without prejudice to other powers available to local housing authorities to acquire land which might also be used in Renewal Areas.

173.5 The extent to which acquisitions will form part of an authority's programme will depend on the particular area. In some cases strategic acquisitions of land for amenity purposes will form an important element of the programme. However, as a general principle, the confirming authority would not expect to see authorities acquiring compulsorily in order to secure improvement except where this cannot be achieved in any other way. Where acquisition is considered to be essential by an authority, they should first attempt to do so by agreement.

- 173.6 Where an authority submit a compulsory purchase order under [section 93\(2\) or 93\(4\) of the Local Government and Housing Act 1989](#), their statement of reasons for making the order should demonstrate compulsory purchase is considered necessary in order to secure the objectives of the Renewal Area.
- 173.7 It should also set out the relationship of the proposals for which the order is required to their overall strategy for the Renewal Area; their intentions regarding disposal of the property; and their financial ability, or that of the purchaser, to carry out the proposals for which the order has been made.

Other housing powers

174. Are there any other housing powers under which local authorities can make compulsory purchase orders?

- 174.1 Compulsory purchase orders can also be made by local authorities under [sections 29 and 300 of the Housing Act 1985](#) and [section 34 of the Housing Associations Act 1985](#). These orders will be considered on their merits in the light of the general requirement that there should be a compelling case for compulsory purchase in the public interest. The confirming authority will also have regard to the policies set out in this section where applicable.

Listed buildings in slum clearance

175. If a building including in a clearance compulsory purchase order under section 290 of the Housing Act 1985 is subsequently listed will the clearance go ahead?

- 175.1 This is a matter for the local planning authority concerned. It will need to decide urgently whether the building should be retained because of its special interest, or whether it should proceed with the clearance proposals.
- 175.2 If the authority favours clearance, it must apply to the Secretary of State for Culture, Media & Sport for listed building consent within three months of the date of listing ([section 305 of the Housing Act 1985](#)).

176. What happens if the building is listed after the order has been submitted to the Secretary of State for Culture, Media & Sport for confirmation but before a decision is reached?

- 176.1 If a building in a clearance compulsory purchase order is listed after the order has been submitted to the Secretary of State for Culture, Media & Sport for confirmation, but before the Secretary of State has reached a decision on it, the authority should inform the Secretary of State urgently how it wishes to proceed in the light of listing.
- 176.2 If it favours retaining the building, the authority should request that the building be withdrawn from the order.

176.3 If the authority applies for listed building consent to demolish, the Secretary of State for Culture, Media & Sport will normally hold a joint local public inquiry at which the compulsory purchase order and the application for listed building consent will be considered together.

177. What happens if the building is listed after the order has been confirmed by the Secretary of State for Culture, Media & Sport?

177.1 If listed building consent is applied for and granted, acquisition, if not completed, can proceed and demolition can follow.

177.2 If listed building consent is refused, or if no application is made within the three month period, subsequent action depends on whether or not notice to treat has been served and, if it has, whether the building is vested in the authority:

- if notice to treat has not been served, [section 305\(2\) of the Housing Act 1985](#) prohibits the authority from serving it unless and until the Secretary of State for Culture, Media & Sport gives listed building consent. Refusal of listed building consent or failure to apply for it within the specified period will effectively release the building from the compulsory purchase order and, where applicable, from the clearance area. In the latter event, the authority must then consider other appropriate action for dealing with unfitness under the housing acts
- if notice to treat has been served before the listing, but acquisition has not been completed before listed building consent is refused or the expiry of the three month period, compulsory acquisition may continue, but this will be under the powers contained in Part 2 of the Housing Act 1985 for residential buildings or Part 9 of the Town and Country Planning Act 1990 for other buildings
- if the building is already vested in the authority, it will be appropriated to [Part 2 of the 1985](#) act or [Part 9 of the Town and Country Planning Act 1990](#) as the case may be

177.3 Local authorities are reminded that [Housing health and safety rating system enforcement guidance](#) advises that listed buildings and buildings subject to a building preservation notice should only be included in clearance areas in exceptional circumstances and only where listed building consent has been given.

178. What happens if the building was purchase by agreement under Part 9 of the Housing Act 1985, or under some other power and now held under Part 9 and is subsequently listed?

178.1 Under [section 306 of the Housing Act 1985](#) the authority may apply for listed building consent if it still favours demolition. If consent is refused or not applied for within the specified period of three months from the date of listing, the authority is no longer subject to the duty to demolish the building imposed by [Part 9 of the Housing Act 1985](#) and must appropriate it to [Part 2 of the Housing Act 1985](#) or [Part 9 of the Town and Country Planning Act 1990](#) as the case may be.

179. Is planning permission required to demolish an unlisted building in a conservation area where the building is included in a clearance compulsory purchase order?

- 179.1 In these circumstances demolition is permitted development (subject to article 4 directions and any Environmental Impact Assessment requirements) so an application for planning permission is not required – see ‘What permissions/prior approvals are required for demolition in a conservation area?’ in [planning guidance](#) for further information.
- 179.2 Where a submitted clearance compulsory purchase order includes buildings within a conservation area, the Secretary of State for Culture, Media & Sport will wish to have regard to the conservation area aspect in reaching their decision on the order.

Section 8: To improve the appearance or condition of land

180. Can a local authority compulsorily acquire land to improve its appearance or condition?

- 180.1 In some circumstances a local authority can compulsorily acquire land to improve its appearance or condition. For instance, a local authority can use their compulsory purchase powers under [section 89\(5\) of the National Parks and Access to the Countryside Act 1949](#) specifically for this purpose.
- 180.2 If the local authority is unsure whether to use these specific powers or if various uses are proposed for the land, the authority may consider using the powers granted by [section 226 of the Town and Country Planning Act 1990](#) instead.
- 180.3 There are also various [other compulsory purchase powers](#) that local authorities may use to acquire and develop land that is derelict, neglected or unsightly for particular purposes such as housing or public open space.

181. When can a local authority use their powers under section 89 of the National Parks and Access to the Countryside 1949 Act to compulsorily purchase land?

- 181.1 A local authority can use their powers under [section 89\(5\) of the National Parks and Access to the Countryside Act 1949](#) to compulsorily purchase land to plant trees to preserve or enhance the natural beauty of the land. The local authority can also use this power to carry out works to reclaim, improve or bring back into use land in their area that the authority believes to be:
- [derelict, neglected or unsightly](#)
 - likely to become derelict, neglected or unsightly because the authority anticipate that the surface may collapse as a result of underground mining operations (other than coal mining)

182. Can a local authority still consider land to be ‘derelict, neglected or unsightly’ even if it is in use?

- 182.1 A local authority may still consider land to be ‘derelict’ or ‘neglected’ even if it is being put to some slight use when its condition is compared to the potential use of the land. However, it is not the purpose of these powers to enable a local authority to carry out works or acquire land solely because they believe that they can provide a better use than the present one.

183. Who decides whether to confirm an order to compulsorily purchase land under section 89 of the National Parks and Access to the Countryside Act 1949?

- 183.1 The Secretary of State for Environment, Food and Rural Affairs decides whether to confirm an order under [section 89\(5\) of the National Parks and Access to the Countryside Act 1949](#).

184. What does the phrase ‘derelict, neglected or unsightly’ mean in connection with these compulsory purchase powers?

- 184.1 There are no statutory definitions so the natural, common sense meaning of the words should be taken. If possible, it is also preferable to consider the three words taken together as there is considerable overlap between each. For instance, the untidy or ‘unsightly’ appearance of the land may also be relevant in considering whether it is ‘derelict’ or ‘neglected’, or land might be considered ‘neglected’ but not ‘derelict’ if no building works, dumping or excavation have taken place.
- 184.2 The authority may wish to obtain the views of the Secretary of State for Environment, Food and Rural Affairs on the meaning of these words when considering whether to make a [section 89\(5\) order](#).

Section 9: For educational purposes

185. What powers does a local authority have to make a compulsory purchase order for educational purposes?

185.1 A local authority can make a compulsory purchase order for educational purposes using its powers under [section 530 of the Education Act 1996](#), as amended, with the confirmation of the Secretary of State for Education. These powers can be used to acquire land which is required for the purposes of its educational functions, including the purposes of:

- any local authority maintained or assisted school or institution
- an academy (whether established or to be established)

186. How does a local authority make a compulsory purchase order for educational purposes?

186.1 When making an order a compulsory purchase order under [section 530 of the Education Act 1996](#), the authority should have due regard to statutory requirements from the Department for Education. The local authority may also seek guidance, if necessary, from that department on the form of draft orders where there is doubt about a particular point.

186.2 The local authority submits the order and other [required documents](#) for confirmation to the Secretary of State for Education at the following address:

Education Funding
Agency Schools
Assets Team
Mowden Hall,
Staindrop Road,
Darlington,
Co. Durham DL3 9BG

186.3 If the compulsory purchase order is for a voluntary aided school, the local authority will need to submit certain additional documents with the order, as well as the standard documents required.

187. When may a local authority make a compulsory purchase order for educational purposes which includes a direction applying section 14A of the Land Compensation Act 1961?

187.1 [Section 27: Compulsory purchase orders which include directions to remove the prospects of planning permission from the assessment of compensation](#) provides advice on including in a compulsory purchase order a direction that requires compensation to be assessed in accordance with section 14A of the Land Compensation Act 1961.

188. What additional documents are required to make a compulsory purchase order for voluntary aided schools?

188.1 In addition to the standard list of documents required to make a compulsory purchase order, an order for a voluntary aided school will require the following documents:

- a) completed copy of the Site Acquisition form (form SB1), available from the [Department for Education](#)
- b) a qualified valuer's report

188.2 These additional documents should accompany, or be submitted as soon as possible after, the order.

189. Can a local authority make a compulsory purchase order in connection with a proposal for changes in school provision?

189.1 A local authority may make a compulsory purchase order (under section 530 of the Education Act 1996) in connection with certain proposals for changes in school provision. A proposal could involve:

- the establishment of a new school for children of compulsory school age (under [Part 2 of the Education and Inspections Act 2006](#))
- a prescribed alteration to an existing maintained school (under Part 2 of the Education and Inspections Act 2006)

190. How does the Secretary of State for Education consider a compulsory purchase order for educational purposes if it is accompanied by a statutory proposal?

190.1 The Secretary of State for Education considers a compulsory purchase order made under [section 530 of the Education Act 1996](#) separately to any accompanying statutory proposal for changes in school provision (made under Part 2 of the Education and Inspections Act 2006).

191. When can the Secretary of State for Education compulsorily purchase land that is required by an academy?

191.1 The Secretary of State for Education can compulsorily purchase land that is required by an academy using the powers granted by Paragraphs 5 and 7 of [Schedule 1 to the Academies Act 2010](#).

The Secretary of State can use these powers if a local authority has either:

- disposed of land
- made an appropriation of land (that they hold a freehold or leasehold interest in) under [section 122 of the Local Government Act 1972](#)

without the consent of the Secretary of State, and if the land in question has been used wholly or mainly for the purposes of a school or a 16 to 19 academy at any time in the period of eight years ending with the day on which this disposal or appropriation was made.

192. What happens once the Secretary of State for Education has completed the compulsory purchase of the land?

- 192.1 Once the Secretary of State for Education has completed the compulsory purchase, the land must be transferred to a person concerned with the running of the academy. The Secretary of State is entitled to recover from the local authority any compensation awarded (and any interest) in relation to the compulsory purchase, together with costs and expenses incurred in connection with the making of the compulsory purchase order.

Arrangements for publishing/seeking proposals for a change in school provision that requires a compulsory purchase order

193. What can a local authority do, if it wishes to compulsorily purchase land to establish a new school for children of compulsory school age?

- 193.1 When a local authority decides that it needs a new school in its area for children of compulsory school age, it is required by [section 6A of the Education and Inspections Act 2006](#) to seek proposals to establish an academy. If the local authority requires land to be compulsorily acquired for this purpose, it should publish the notice seeking proposals before making a compulsory purchase order.
- 193.2 The local authority is also expected to notify the Department for Education of their plan to seek proposals as soon as the need for a new school has been decided upon.
- 193.3 A local authority can only publish its own proposals in the limited circumstances set out in Part 2 of that Act, for example if the new school is to replace one or more maintained schools. Further information is available from the [Department for Education](#).

194. What can a local authority do, if it wishes to compulsorily purchase land to make a prescribed alteration to a school?

- 194.1 If a local authority wishes to make a prescribed alteration under [Part 2 of the Education and Inspections Act 2006](#), the local authority should publish their proposals before making a compulsory purchase order.

195. What can an appropriate authority do if their proposal to restructure school sixth form education requires the compulsory purchase of land?

- 195.1 The appropriate authority (the Skills Funding Agency or the Education Funding Agency) should publish their proposal to restructure school sixth form education before the relevant local authority makes a compulsory purchase order.

Deciding an application for approval for a change in school provision that accompanies a compulsory purchase order

196. How is a proposal for a change in school provision considered, if it relies on the approval of a compulsory purchase order?

- 196.1 Depending on the nature of the proposal, an application for approval is considered as follows:

a) proposals to establish a new academy

The Secretary of State for Education makes the final decision on whether to approve a proposal to establish a new academy.

When considering the proposal, the Secretary of State takes into account the need for a compulsory purchase order and any decision to approve the proposal is then conditional on the local authority acquiring the site. The local authority is then informed of the decision on the proposal so that it may make and submit the compulsory purchase order.

b) proposals to make a prescribed alteration to an existing maintained school

The relevant local authority or schools adjudicator decides whether to approve a proposal to make a prescribed alteration to an existing maintained school.

The relevant local authority or schools adjudicator considers the application for approval of a proposal for a prescribed alteration. Consideration is given on the merits of the proposal and independently from the Secretary of State for Education's consideration of the compulsory purchase order.

- 196.2 Approval can only be given on the condition that the relevant site is acquired under [regulation 16\(2\)\(b\) of the School Organisation \(Establishment and Discontinuance of Schools\) Regulations 2013](#). The local authority will then be informed of the decision so that it may make and submit the compulsory purchase order.

197. What happens if the proposal for a change in school provision is rejected?

- 197.1 If the decision is to reject the proposal for a change in school provision, the local authority is advised not make the order since, in these circumstances it would be inappropriate for the Secretary of State for Education to confirm it.

198. What happens once the Secretary of State for Education has decided whether or not to confirm the compulsory purchase order?

- 198.1 If the Secretary of State for Education decides to confirm the compulsory purchase order the order will be sealed and returned to the local authority. When the local authority has purchased the site, the condition of the approval is met and the approval of the proposal becomes final with no further action required. If the Secretary of State decides not to confirm the order, the proposal falls as the condition is not met.

Section 10: For public libraries and museums

199. Who has compulsory purchase powers to acquire land for public libraries and museums?

- 199.1 A local authority can compulsorily acquire land for public libraries and museums under [section 121 of the Local Government Act 1972](#), using an appropriate enabling power (such as [section 7](#) or [12](#) of the [Public Libraries and Museums Act 1964](#)).

200. How does a local authority make a compulsory purchase order for public libraries and museums?

- 200.1 When making a compulsory purchase order for public libraries and museums the local authority should have due regard to statutory requirements.
- 200.2 The order should be accompanied by each of the following additional documents:
- a completed copy of form CP/AL1 (obtainable from the Department for Culture, Media & Sport, Libraries Division)
 - a qualified valuer's report

The order and accompanying documents are submitted to the Secretary of State for Culture, Media & Sport for confirmation at the outlined in [Section 18](#).

Section 11: For airport Public Safety Zones

201. Can an airport operator compulsorily purchase property that is located near an airport?

201.1 An airport operator can compulsorily purchase whole or part of a property if it is located within the 1 in 10,000 individual risk contour of an airport and if the property, or the relevant part of it, is:

- an occupied residential property
- a commercial or industrial property that is occupied as an all-day workplace

201.2 However, a compulsory purchase order should only be made as a last resort, if the airport authority is unable to purchase the property by agreement.

202. What should the airport operator do if a property falls into the categories described above?

202.1 If a property falls into the categories described above, the airport operator is expected to offer to purchase the property by agreement, with compensation being payable under the Compensation Code.

202.2 If purchase by agreement is not possible, the Secretary of State for Transport will be prepared to consider applications for compulsory purchase by airport operators with powers under [section 59 of the Airports Act 1986](#).

202.3 To make a compulsory purchase order, the airport operator will need to demonstrate that the property falls within the categories described and that it has not been possible to purchase the property by agreement. The compulsory purchase order should be sent to the Secretary of State for Transport at:

Airports Policy Division
Zone 1/26, Great Minster House
33 Horseferry Road
London
SW1P
4DR

202.4 Once the property has been acquired, the airport operator will be expected to demolish any buildings and to clear the land.

203. What is the '1 in 10,000 individual risk contour' of an airport and why is property within this area significant?

203.1 The '1 in 10,000 individual risk contour' is an area of land within the Public Safety Zone of an airport where individual third party risk of being killed as a result of an aircraft accident is greater than 1 in 10,000 per year.

203.2 The level of risk in the '1 in 10,000 individual risk contour' is much higher than in other areas of the Public Safety Zone and at some airports, this contour extends beyond the airport boundary.

- 203.3 As a result, it is the Secretary of State for Transport's policy that there should be no occupied residential properties or all day workplaces within this area.
- 203.4 Further information can be found on the Department for Transport website (see [Circular 1/10: Control of Development in Airport Public Safety Zones](#)).

Section 12: For listed buildings in need of repair

204. Who has compulsory purchase powers for listed buildings in need of repair?

204.1 [Section 47 of the Planning \(Listed Buildings and Conservation Areas\) Act 1990](#) gives an appropriate authority compulsory purchase powers to acquire a listed building in need of repair with the authorisation of the Secretary of State for Culture, Media & Sport. The appropriate authority may be:

- the relevant local planning authority
- Historic England, if the listed building is located in Greater London
- the Secretary of State for Culture, Media & Sport

204.2 It is the Secretary of State for Culture, Media & Sport's policy to only use this power in exceptional circumstances.

205. How does an appropriate authority make a compulsory purchase order for a listed building in need of repair?

205.1 To make a compulsory purchase order for a listed building in need of repair under [section 47 of the Planning \(Listed Buildings and Conservation Areas\) Act 1990](#), the appropriate authority is required to:

- serve a repairs notice under [section 48 of the Planning \(Listed Buildings and Conservation Areas\) Act 1990](#) on the owner (see [section 31\(2\) of Planning \(Listed Buildings and Conservation Areas\) Act 1990](#)/ [section 336 of the Town and Country Planning Act 1990](#)) of the listed building at least two months before making the compulsory purchase order
- prepare and serve the compulsory purchase order and its associated notices, if the repairs notice has not been complied with within two months of service
- submit the compulsory purchase order, a copy of the [repairs notice](#) and all [supporting documents](#) to the [Secretary of State for Culture, Media & Sport](#)

206. What if the owner has deliberately allowed the listed building to fall into disrepair to justify its demolition?

206.1 If there is clear evidence that the owner of a listed building has deliberately allowed the building to fall into disrepair to justify its demolition and the development of the site (or an adjoining site), the acquiring authority can include a direction for minimum compensation within the compulsory purchase order. Provisions for minimum compensation are given in [section 50 of the Planning \(Listed Buildings and Conservation Areas\) Act 1990](#).

206.2 The relevant wording for including a minimum compensation direction in a compulsory purchase order are set out in optional paragraph 4 of [Form 1 in the Schedule to the Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) Regulations 2004 \(as amended\)](#)¹⁹. Follow the link for advice on [how to include a direction for minimum compensation](#) within a compulsory purchase order.

207. What should a local authority do if an application is made to a magistrates' court to contest a direction for minimum compensation?

207.1 As soon as a local authority becomes aware of any application to a magistrates' court:

- to stay further proceedings on the compulsory purchase order, under [section 47\(4\) of the Planning \(Listed Buildings and Conservation Areas\) Act 1990](#)
- for an order that a direction for minimum compensation is not included in the compulsory purchase order, under [section 50\(6\) of the Planning \(Listed Buildings and Conservation Areas\) Act 1990](#)

they should notify the Secretary of State for Culture, Media & Sport immediately. Depending on the circumstances, it may be necessary to hold the order in abeyance (i.e. suspend the order) until the court has considered the application.

Repairs notices

208. When might an appropriate authority serve a repairs notice?

208.1 An appropriate authority may consider issuing a repairs notice (under [section 48 of the Planning \(Listed Buildings and Conservation Areas\) Act 1990](#)) if a listed building is at risk because its owner has failed to keep the building in reasonable repair for an extended period of time. A repairs notice is not the same as a notice for urgent works ([section 54 of the Planning \(Listed Buildings and Conservation Areas\) Act 1990](#)) and can be served whether the listed building is occupied or not.

208.2 Further information on repairs notices and notices for urgent works are available from the [Historic England website](#).

209. What information should the repairs notice include?

209.1 The repairs notice must:

- specify the works which the authority considers reasonably necessary for the proper preservation of the building
- explain the effect of [sections 47-50 of the Planning \(Listed Buildings and Conservation Areas\) Act 1990](#)

¹⁹ The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by [The Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) \(Amendment\) Regulations 2024](#)

210. What works might be specified in the repairs notice?

- 210.1 The works specified in the repairs notice will always relate to the circumstances of the individual case and will involve judgments about what is considered reasonable to preserve (rather than restore) the listed building.
- 210.2 Other considerations may be used as a basis for determining the scope of works required. For example, the condition of the building when it was listed may be taken into account if the building has suffered damage or disrepair since being listed.
- 210.3 In this case, the repairs notice may include works to secure the building's preservation as at the date of listing, but should not be used to restore other features.
- 210.4 Alternatively, the notice may specify works that are necessary to preserve the rest of the building, such as repairs to a defective roof, whether or not the particular defect was present at the time of listing.

The form of the compulsory purchase order and its associated notices

211. How are the compulsory purchase order and associated notices prepared?

- 211.1 General guidance on the format of compulsory purchase orders is available [here](#).
- 211.2 For compulsory purchase orders for listed buildings in need of repair, there are additional provisions set out in [regulation 4 of the Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) Regulations 2004 \(as amended\)](#)²⁰. These require additional paragraphs from the schedule to the regulations to be inserted into the relevant forms, as described below.
- 211.3 When preparing any personal notices:
- include additional paragraphs 3 and 5 of [Form 8](#)
 - if a [direction for minimum compensation](#) is included within the order insert additional paragraphs [3 - 5 of Form 8](#)
 - include an explanation of the meaning of the direction, as required by [section 50\(3\) of the Planning \(Listed Buildings and Conservation Areas\) Act 1990](#). This should normally include the text of subsections (4) and (5) of section 50 of that Act
- 211.4 When preparing the compulsory purchase order:
- if a direction for minimum compensation is included within the order, include optional paragraph 4 of Form 1 in orders drafted using Form 1

²⁰ The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by [The Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) \(Amendment\) Regulations 2024](#)

Section 13: For the purposes of facilitating biodiversity net gain

212. Can a compulsory purchase order be made which includes land for the purposes of facilitating biodiversity net gain?

212.1 The Town and Country Planning Act 1990 (as amended by the [Environment Act 2021](#)) imposes a condition on the grant of planning permission for biodiversity net gain: see [section 90A](#) and [Schedule 7A](#) of the [Town and Country Planning Act 1990](#).

212.2 It may be necessary for an acquiring authority to acquire land for biodiversity net gain purposes either together with other land required for the scheme or alone. Where an acquiring authority is considering making a compulsory purchase order which will include land for the purposes of satisfying biodiversity net gain requirements it should consider the following matters:

- the principles outlined in [When should compulsory purchase powers be used?](#) will apply equally to that land as it does to other land in the scheme, in particular:
 - use of compulsory purchase powers is intended as a last resort
 - a compelling case in the public interest in relation to the acquisition of the land for biodiversity net gain purposes will need to be established
- the scope of the compulsory purchase powers which the acquiring authority intends to use and whether those powers are sufficient to be exercised to compulsorily acquire land required for biodiversity net gain purposes

212.3 In relation to local authorities specifically, there are a number of enabling powers which may be sufficiently wide to enable the acquisition of land to satisfy biodiversity net gain requirements. For example, the powers of compulsory purchase conferred on local authorities under [section 226\(1\)\(a\) of the Town and Country Planning Act 1990](#) are widely drawn. As such, they may be used by a local authority with planning powers to acquire land if they think that it will facilitate the carrying out of development, redevelopment or improvement (which includes regeneration) providing it is likely to contribute to achieving one of the listed statutory aims in [section 226\(1A\) of the Town and Country Planning Act 1990](#):

- (a) the promotion or improvement of the economic well-being of their area
- (b) the promotion or improvement of the social well-being of their area
- (c) the promotion or improvement of the environmental well-being of their area

212.4 The acquisition of land for biodiversity net gain purposes may, in appropriate circumstances, be a sufficiently integral part of the scheme underlying the compulsory purchase order (i.e. the relevant proposal needing to satisfy the biodiversity net gain requirements) which will facilitate those aims.

Tier 3: Procedural Issues

213. Where can guidance on common procedural issues be found?

Guidance can be found here:

- [Section 14: Preparing statement of reasons](#)
- [Section 15: General certificate](#)
- [Section 16: Preparing and serving the compulsory purchase order and notices](#)
- [Section 17: Compulsory purchase order maps](#)
- [Section 18: Addresses](#)

214. Where can further information on other procedural issues which will only apply in certain cases be found?

Further information can be found here:

- [Section 19: For community assets \(at the request of the community\)](#)
- [Section 20: Special kinds of land](#)
- [Section 21: Compulsory purchase of new rights and other interests](#)
- [Section 22: Compulsory purchase of Crown land](#)
- [Section 23: Certificates of Appropriate Alternative Development \(under the Land Compensation Act 1961\)](#)
- [Section 24: Protected assets certificate](#)
- [Section 25: Objection to division of land \(material detriment\)](#)
- [Section 26: Overriding easements and other rights](#)
- [Section 27: Compulsory purchase orders which include directions to remove the prospects of planning permission from the assessment of compensation](#)

Common Procedural Issues

Section 14: Preparing statement of reasons

215. What information should be included in the statement of reasons?

215.1 The statement of reasons should include the following information:

- (i) a brief description of the order land and its location, topographical features and present use
- (ii) an explanation of the use of the particular [enabling power](#)
- (iii) an outline of the authority's purpose in seeking to acquire the land
- (iv) a statement of the authority's [justification for compulsory purchase](#), with regard to Article 1 of the First Protocol to the European Convention on Human Rights, and Article 8 if appropriate
- (v) a statement in relation to the acquiring authority's public sector equality duty and how that has been taken into account in making the compulsory purchase order
- (vi) where applicable, a statement of the authority's justification for including in a compulsory purchase order a direction which applies [section 14A of the Land Compensation Act 1961](#) (see [How will an acquiring authority demonstrate the inclusion of a direction applying section 14A of the Land Compensation Act 1961 in a compulsory purchase order is justified in the public interest?](#) for advice on what information should be provided to accompany the statement)
- (vii) a statement justifying the extent of the scheme to be disregarded for the purposes of assessing compensation in the 'no-scheme world'
- (viii) a description of the proposals for the use or development of the land
- (ix) a statement about the [planning position of the order site](#) (see also [Section 1: Advice on section 226 of the Town and Country Planning Act 1990](#) for planning orders)
- (x) information required in the light of government policy statements where orders are made in certain circumstances e.g. as stated in [Section 7: Local housing authorities for housing purposes](#) where orders are made under the Housing Acts (including a statement as to unfitness where unfit buildings are being acquired under [Part 9 of the Housing Act 1985](#))
- (xi) any special considerations affecting the order site e.g. ancient monument, listed building, conservation area, special category land, consecrated land, renewal area, etc
- (xii) if the mining code has been included, reasons for doing so

- (xiii) details of how the acquiring authority seeks to overcome any obstacle or prior consent needed before the order scheme can be implemented e.g. need for a waste management licence
- (xiv) a summary of:
 - (a) the anticipated impact of the exercise of the compulsory purchase powers on affected owners and occupiers (either generically and/or individually as appropriate) as the acquiring authority understands those impacts having engaged with such owners and occupiers on the potential impact (where information included in the statement constitutes personal data the acquiring authority should take appropriate steps before making such data available, for example, redaction or anonymisation - guidance on the disclosure of personal data associated with the publishing of a compulsory purchase order is included in [How should acquiring authorities deal with any personal data collected in relation to a compulsory purchase order?](#))
 - (b) the mitigation (if any) which will be in place to alleviate those impacts either through the existing compulsory purchase process or compensation regimes or through specific mitigation that the acquiring authority is proposing to put in place
- (xv) details of any views which may have been expressed by a government department about the proposed development of the order site
- (xvi) what steps the authority has taken to negotiate for the acquisition of the land by agreement
- (xvii) any other information which would be of interest to persons affected by the order e.g. proposals for rehousing displaced residents or for relocation of businesses
- (xviii) details of any related order, application or appeal which may require a co-ordinated decision by the confirming authority e.g. an order made under other powers, a planning appeal/application, road closure, listed building
- (xix) if, in the event of an inquiry, the authority would intend to refer to or put in evidence any documents, including maps and plans, it would be helpful if the authority could provide a list of such documents, or at least a notice to explain that documents may be inspected at a stated time and place

Section 15: General certificate

216. What is the purpose of a general certificate in support of an order submission?

- 216.1 A general certificate has no statutory status but is intended to provide reassurance to the confirming authority that the acquiring authority has followed the proper statutory procedures.

217. What form should a general certificate in support of an order submission take?

- 217.1 The certificate should be submitted in the following form:

THE COMPULSORY PURCHASE ORDER 20...

I hereby certify that:

1. A notice in the Form numbered.....in the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (as amended) (SI 2004 No. 2595) ("the 2004 Prescribed Forms Regulations") was published in two issues of the dated 20.... and 20....(being one or more local newspapers circulating in the locality). The time allowed for objections was not less than 21 days from the date of the first publication of the notice and the last date for them is/was..... 20....

A notice in the same Form was published on a website containing information about the proposed compulsory purchase on 20... and from that date remained in place for a period of at least 21 days which was the period allowed for objections, the last date being 20....

A notice in the same Form was affixed to a conspicuous object or objects on or near the land comprised in the order on 20.... and from that date remained in place for a period of at least 21 days which was the period allowed for objections, the last date being 20....

2. Notices in the Form numbered in the said Regulations were duly served on:
 - (i). every owner, lessee, tenant and occupier of all land to which the order relates;
 - (ii). every person to whom the acquiring authority would, if proceeding under section 5(1) of the Compulsory Purchase Act 1965, be required to give a notice to treat; and

- (iii). every person the acquiring authority thinks is likely to be entitled to make a claim for compensation under section 10 of the Compulsory Purchase Act 1965 if the order is confirmed and the compulsory purchase takes place, so far as such a person is known to the acquiring authority after making diligent inquiry. (NB: For:
 - (a) orders made under section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the notice must include additional paragraphs in accordance with regulation 4 of the 2004 Prescribed Forms Regulations (as amended); or
 - (b) orders which include a direction that applies section 14A of the Land Compensation Act 1961, the notice must include additional paragraphs in accordance with regulation 4A of the 2004 Prescribed Forms Regulations (as amended).)

The time allowed for objections in each of the notices was not less than 21 days and the last date for them is/was 20.... The notices were served by one or more of the methods described in section 6(1) of the Acquisition of Land Act 1981.

[Where the order includes land in unknown ownership insert the following: Notices in the same Form were duly served by one or more of the methods described in section 6(4) of the Acquisition of Land Act 1981. The time allowed for objections in each of the notices was not less than 21 days and the last date is/was 20.... .]

3. A copy of the order and of the map were deposited at on 20.... and will remain/remained available for inspection until

4. A copy of the order and of the map were published online at www..... on 20.... and will remain/remained available to view until

5. (1) A copy of the authority's statement of reasons for making the order has been sent to:

- (a) all persons referred to in paragraph 2(i), (ii) and (iii) above (see [Which parties should be notified of a compulsory purchase order?](#));
- (b) as far as is practicable, other persons resident on the order lands, and any applicant for planning permission in respect of the land.

(2) Two copies of the statement of reasons are herewith forwarded to the Secretary of State.

6. *[Where the order includes ecclesiastical property insert the following:* Notice of the effect of the order has been served on the Church Commissioners (section 12(3) of the Acquisition of Land Act 1981.]

NB. [The Town and Country Planning \(Churches, Places of Religious Worship and Burial Grounds\) Regulations 1950 \(SI 1950 No. 792\)](#) apply where it is proposed to use for other purposes consecrated land and burial grounds which here acquired compulsorily under any enactment, or acquired by agreement under the Town and Country Planning Acts, or which were appropriated to planning purposes. Subject to sections 238 to 240 of the 1990 Act, permission (a 'faculty') is required for material alteration to consecrated land. (See [Faculty Jurisdiction Measure 1964](#); [Care of Churches and Ecclesiastical Jurisdiction Measure 1991](#).)

Section 16: Preparing and serving the compulsory purchase order and notices

218 What format should a compulsory purchase order adopt?

- 218.1 The order and associated schedule should comply with the relevant form as prescribed by regulation 3 of, and the [Schedule to, the Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) Regulations 2004](#) (as amended)²¹.
- 218.2 In accordance with the notes to the prescribed forms, the title and year of the act authorising compulsory purchase must be inserted. Each acquisition power must be cited and its purpose clearly stated in paragraph 1 of the order. For orders made under [section 17 of the Housing Act 1985](#), the purpose of the order may be described as ‘the provision of housing accommodation’. Where there are separate compulsory acquisition and enabling powers, each should be identified and its purpose stated. In some cases, a collective title may be sufficient to identify two or more acts. (See [Section 1: Advice on section 226 of the Town and Country Planning Act 1990](#) and [Section 21: Compulsory purchase of new rights and other interests](#) for examples of how orders made under certain powers may be set out. [Section 2: Advice on section 121 of the Local Government Act 1972](#) contains guidance on orders where the acquisition power is [section 121](#) or [section 125](#) of the Local Government Act 1972 and on orders for mixed purposes.)

219 Where should the compulsory purchase order maps be deposited?

- 219.1 A certified copy of the order map should be deposited for inspection at an appropriate place within the locality e.g. the local authority offices. It should be within reasonably easy reach of persons living in the area affected. It should also be published on a website which contains information about the scheme or project that underlies the proposed purchase. The two sealed order maps should be forwarded to the offices of the confirming authority.

220 Can the ‘the mining code’ be incorporated into a compulsory purchase order?

- 220.1 [Parts 2 and 3 of Schedule 2 to the Acquisition of Land Act 1981](#), relating to mines (‘the mining code’), may be incorporated in a compulsory purchase order made under powers to which the act applies. The incorporation of both parts does not, of itself, prevent the working of minerals within a specified distance of the surface of the land acquired under the order; but it does enable the acquiring authority, if the order becomes operative, to serve a counter-notice stopping the working of minerals, subject to the payment of compensation. Since this may result in the sterilisation of minerals (including coal reserves), the mining code should not be incorporated automatically or indiscriminately.

²¹ The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by The [Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) \(Amendment\) Regulations 2024](#)

- 220.2 Therefore, authorities are asked to consider the matter carefully before including the code, and to omit it where existing statutory rights to compensation or repair of damage might be expected to provide an adequate remedy in the event of damage to land, buildings or works occasioned by mining subsidence.
- 220.3 The advice of the Valuation Office Agency's regional mineral valuers is available to authorities when considering the incorporation of the code.
- 221 Who should authorities notify if they make a compulsory purchase order incorporating the mining code?**
- 221.1 In areas of coal working notified to the local planning authority by the [Coal Authority](#) under [article 16](#) of, and paragraph (o), [Schedule 4](#) to, the [Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#), authorities are asked to notify the Coal Authority and relevant licensed coal mine operator if they make an order which incorporates the mining code.
- 222 What information about the land to be acquired should be included in a compulsory purchase order?**
- 222.1 The prescribed order formats set out in the [Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) Regulations 2004 \(as amended\)](#)²² require, subject to the flexibility to adapt them permitted by Regulation 2, that the extent of the land should be stated. Therefore, the area of each plot, e.g. in square metres, should normally be shown. This information will be particularly important where any potential exists for dispute about the boundary of the land included in the order, because [section 14 of the Acquisition of Land Act 1981](#) prohibits the modification of an order on confirmation to include land which would not otherwise have been covered. It may not always be necessary for a measurement of the plot to be quoted, if the extent and boundaries can be readily ascertained without dispute. For instance, the giving of a postal address for a flat may be sufficient.
- 222.2 Each plot should be described in terms readily understood by a layperson, and it is particularly important that local people can identify the land described. The Regulations require that the details about the extent, description and situation of the land should be sufficient to tell the reader approximately where the land is situated without reference to the map (see notes to prescribed [Forms 1 to 6 in the Schedule to the Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) Regulations 2004 \(as amended\)](#)²³).
- 222.3 Simple descriptions in ordinary language are to be preferred. For example, where the land is agricultural it should be described as 'pasture land' or 'arable land'; agricultural and non- agricultural afforested areas may be described as 'woodland' etc.; and, if necessary, be related to some well known local landmark, e.g. 'situated to the north of School Lane about 1 km west of George's Copse'.

²² The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by The [Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) \(Amendment\) Regulations 2024](#)

²³ The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by The [Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) \(Amendment\) Regulations 2024](#)

- 222.4 Where the description includes a reference to Ordnance Survey field numbers the description should also state or refer to the sheet numbers of the Ordnance Survey maps on which these field numbers appear. The Ordnance Survey map reference should quote the edition of the map.
- 222.5 Property, especially in urban areas, should be described by name or number in relation to the road or locality and where part of a property has a separate postal address this should be given. Particular care is necessary where the street numbers do not follow a regular sequence, or where individual properties are known by more than one name or number. The description should be amplified as necessary in such cases to avoid any possibility of mistaken identity.
- 222.6 If the order when read with the order map fails to clearly identify the extent of the land to be acquired, the confirming authority may refuse to confirm the order even though it is unopposed.

223 What information should be included in the compulsory purchase order where the authority already owns an interest in the land to be acquired?

- 223.1 Except for orders made under highway land acquisition powers in [Part 12 of the Highways Act 1980](#), to which [section 260](#) of that Act applies, where the acquiring authority already own an interest or interests in land but wish to acquire the remaining interest or interests in the same land, usually to ensure full legal title, they should include a description of the land in column 2 of the Schedule in the usual way but qualify the description as follows; ‘all interests in [describe the land] except those owned by the acquiring authority’. The remaining columns should be completed as described in [What information should be included in the compulsory purchase order schedule?](#). This principle should be extended to other interests in the land which the acquiring authority does not wish to acquire, e.g. Homes England might decide it wishes to exclude its own interests and local authority interests from an order.
- 223.2 Compulsory purchase should not be used merely to resolve conveyancing difficulties. It is accepted, however, that it may only be possible to achieve satisfactory title to certain interests by the use of compulsory powers, perhaps followed by a general vesting declaration (see [Stage 5: Implementing a compulsory purchase order](#)). Accordingly, acquiring authorities will be expected to explain and justify the inclusion of such interests. The explanation may be either in their preliminary statement of reasons or in subsequent correspondence, which may have to be copied to the parties. If no explanation is given or if the reasons are unsatisfactory, the confirming authority may modify an order to exclude interests which the acquiring authority already own, on the basis that compulsory powers are unnecessary.
- 223.3 A similar form of words to that described above may be appropriate where the acquiring authority wish to include in the order schedule an interest in Crown land which is held otherwise than by or on behalf of the Crown. (In most cases, the Crown’s own interests cannot be acquired compulsorily.) Further guidance on this subject is given in [Section 22: Compulsory purchase of Crown land](#).

224 Who is the acquiring authority required to serve notice of the making of the compulsory purchase order?

224.1 The schedule to the order should include the names and addresses of every qualifying person as defined in [section 12\(2\), 12\(2A\) and 12\(2B\) of the Acquisition of Land Act 1981](#) and upon whom the acquiring authority is required to serve notice of the making of the order.

A qualifying person is:

- i. every owner, lessee, tenant, and occupier (section 12(2)(a) of the Acquisition of Land Act 1981)
- ii. every person to whom the acquiring authority would, if proceeding under [section 5\(1\) of the Compulsory Purchase Act 1965](#), be required to give a notice to treat (section 12(2A) of the Acquisition of Land Act 1981)
- iii. every person the acquiring authority thinks is likely to be entitled to make a claim for compensation under section 10 of the Compulsory Purchase Act 1965 if the order is confirmed and compulsory purchase takes place, so far as such a person is known to the acquiring authority after making [diligent inquiry](#) under section 12(2B) of the Acquisition of Land Act 1981

225 Should the compulsory purchase order schedule include persons who may have a valid claim to be owners or lessees?

225.1 The schedule should include persons who may have a valid claim to be owners or lessees for the purposes of the Acquisition of Land Act 1981, e.g. persons who have entered into a contract to purchase a freehold or lease.

226 How should partnerships be dealt with?

226.1 The acquiring authority should ask the partnership to nominate a person for service. This avoids having to include the names of all partners in a partnership in the schedule and ensuring all partners are personally served. Notice served upon the partner who habitually acts in the partnership business is probably valid (see [section 16 of the Partnership Act 1890](#)), especially if that partner has control and management of the partnership premises, but the position is not certain.

227 How should corporate bodies be dealt with?

227.1 Service should be effected on the secretary or clerk at the registered or principal office of a corporate body, which should be shown in the appropriate column, i.e. as owner, lessee etc. ([section 6\(2\) and \(3\) of the Acquisition of Land Act 1981](#)). NB: under Company Law requirements, notices served on a company should be addressed to the secretary of the company at its principal or registered office. It is good practice to send copies to the actual contact who has been dealing with negotiations.

228 How should Trusts be dealt with?

228.1 Individual trustees should be named and served.

229 How should unincorporated bodies be dealt with?

- 229.1 In the case of unincorporated bodies, such as clubs, chapels and charities, the names of the individual trustees should be shown and each trustee should be served as well as the secretary. NB: The land may be vested in the trustees and not the secretary, but the trustees may be somewhat remote from the running of the club etc.; and since communications should normally be addressed to its secretary, it is considered to be reasonable that the secretary should also be served. However, service solely on the secretary of such a body is not sufficient unless it can be shown that the secretary has been authorised by the trustees, or has power under the trust instrument, to accept order notices on behalf of the trustees.

230 How should charitable trusts be dealt with?

- 230.1 In the case of land owned by a charitable trust it is advisable for notice of the making of the order to be served on the Charity Commissioners at their headquarters address as well as on the trustees. See [Part 7 of the Charities Act 2011](#).

231 How should land which is ecclesiastical property be dealt with?

- 231.1 Where land is ecclesiastical property, i.e. owned by the Church of England, notice of the making of the order must be served on the Church Commissioners as well as on the owners etc. of the property (see [section 12\(3\) of the Acquisition of Land Act 1981](#)).

232 How should ancient monuments be dealt with?

- 232.1 Where it appears that land is or may be an ancient monument, or forms the site of an ancient monument or other object of archaeological interest, authorities should, at an early stage and with sufficient details to identify the site, contact the Historic Buildings and Monuments Commission for England (otherwise known as Historic England), or the County Archaeologist, according to the circumstances shown below:

- in respect of a scheduled ancient monument – [Historic England](#)
- in respect of an unscheduled ancient monument or other object of archaeological interest – the County Archaeologist

- 232.2 This approach need not delay other action on the order or its submission for confirmation, but the authority should refer to it in the letter covering their submission.

233 How should land in a national park be dealt with?

- 233.1 Where orders include land in a national park, acquiring authorities are asked to notify the National Park Authority. Similarly, where land falls within a designated Area of Outstanding Natural Beauty or a Site of Special Scientific Interest, they should notify [Natural England](#).

234 How should land which is being used for sport or physical recreation be dealt with?

234.1 When an order relates to land being used for the purposes of sport or physical recreation, [Sport England](#) should be notified of the making of the order.

235 Can notice be served at a person's accommodation address?

235.1 Notice can be served at an accommodation address, or where service is effected on solicitors etc., provided the acquiring authority has made sure that the person to be served has furnished this address or has authorised service in this way; where known, the served person's home or current address should also be shown.

236 What information should be included in the compulsory purchase order schedule?

- **about the owner or reputed owner** - where known, the name and address of the owner or reputed owner of the property should be shown. If there is doubt whether someone is an owner, they should be named in the column and a notice served on them. Likewise, if there is doubt as to which of two (or more) persons is the owner, both (or all) persons should be named in the sub-column and a notice served on each. Questions of title can be resolved later. If the owner of a property cannot be traced the word 'unknown' should be entered in the column. An order should include those covenants or restrictions which amount to interests in land that the authority wish to acquire or extinguish. Where land owned by the authority is subject to such an encumbrance (for example, an easement, such as a private right of way), they may wish to make an order to discharge the land from it. In any such circumstances, the owner or occupier of the land and the person benefiting from the right should appear in the relevant table of the schedule. The statement of reasons should explain that authority is being sought to acquire or extinguish the relevant interest. Where the encumbrance affects land in which the acquiring authority have a legal interest, the description in the schedule should refer to the right etc. and be qualified by the words 'all interests in, on, over or under [*the land*] except those already owned by the acquiring authority'. This should avoid giving the impression that the authority has no interest to acquire
- **about lessees, tenants, or reputed lessees or tenants** - where there are no lessees, tenants or reputed lessees or tenants a dash should be inserted, otherwise names and addresses should be shown
- **about occupiers** - where a named owner, lessee, or tenant is the occupier, the word 'owner', 'lessee' or 'tenant' should be inserted or the relevant name given. Where the property is unoccupied the column should be endorsed accordingly

[How should acquiring authorities deal with any personal data collected in relation to a compulsory purchase order?](#) provides advice on publishing personal data contained in a schedule to a compulsory purchase order schedule.

237 What information about qualifying persons under sections 12(2A) and 12(2B) found by diligent enquiries should be included in the compulsory purchase order schedule?

- 237.1 Although most qualifying persons will be owners, lessees, tenants or occupiers, the possibility of there being anyone falling within one of the categories in [sections 12\(2A\) and \(2B\) of the Acquisition of Land Act 1981](#) should not be ignored. The name and address of a person who is a qualifying person under section 12(2A) who is not included in column (3) of the order schedule should be inserted in column (5) together with a short description of the interest to be acquired. An example of a person who might fall within this category is the owner of land adjoining the order land who has the benefit of a private right of way across the order land, which the acquiring authority have under their enabling power a right to acquire which they are seeking to exercise.

(An example of this is [section 18\(1\) of the National Parks and Access to the Countryside Act 1949](#) which empowers the Natural England to acquire an 'interest in land' compulsorily which is defined in [section 114\(1\)](#) to include any right over land.)

- 237.2 Similarly the name and address of a person who is a qualifying person under section 12(2B) who is not included in columns (3) and (5) of the order schedule should be inserted in column (6), together with a description of the land in respect of which a compensation claim is likely to be made and a summary of the reasons for the claim. An example of such a potential claim might be where there could be interference with a private right of access across the land included in the order as a result of implementing the acquiring authority's proposals.

238 What is meant by 'diligent enquiries'?

- 238.1 In determining the extent to which it should make 'diligent' enquiries, an authority will wish to have regard to the fact that case law has established that, for the purposes of [section 5\(1\) of the Compulsory Purchase Act 1965](#), 'after making diligent inquiry' requires some degree of diligence, but does not involve a very great inquiry (see Popplewell J. in *R v Secretary of State for Transport ex parte Blackett* [1992] JPL 1041).
- 238.2 Acquiring authorities are encouraged to serve formal notices seeking information on all interests they have identified to find out if there any additional interests they are not aware of if a landowner has been served with a notice and fails to respond.
- 238.3 An acquiring authority does not have any statutory power under section 5A of the Acquisition of Land Act 1981 to requisition information about land other than that which it is actually proposing to acquire. However, the site notice procedure in [section 11\(3\) and \(4\) of the Acquisition of Land Act 1981](#) provides an additional means of alerting people who might feel that they have grounds for inclusion in column (6) and who can then identify themselves.

239 How should special category land be recorded in the order?

- 239.1 Special category land i.e. land to which [sections 17, 18 and 19](#) of the Acquisition of Land Act 1981 apply, (or [paragraphs 4, 5 and 6 of Schedule 3 to the Act](#) in the case of acquisition of a new right over such land) should be shown both in the order schedule and in the list at the end of the schedule, in accordance with the relevant notes. But in the case of [section 17 of the Act](#) (or, for new rights, [Schedule 3, paragraph 4](#)) it is only necessary to show land twice if the acquiring authority is not mentioned in [section 17\(3\)](#) or [paragraph 4\(3\) of Schedule 3](#) (see also [Section 20: Special kinds of land](#)). If an order erroneously fails to state in accordance with the prescribed form that land to be acquired is special category, then the confirming authority may need to consider whether confirmation should be refused as a result.

240 What information should be recorded in the order schedule where the land is common, open space etc.?

- 240.1 An order may provide for special category land to which [section 19 of the Acquisition of Land Act 1981](#) applies ('order land') to be discharged from rights, trusts and incidents to which it was previously subject; and for vesting in the owners of the order land, other land which the acquiring authority propose to give in exchange ('exchange land'). Such orders must be made in accordance with the appropriate prescribed form ([Forms 2, 3, 5 or 6](#)) adapted, in compliance with the notes, to suit the particular circumstances.
- 240.2 The order land and, where it is being acquired compulsorily, the exchange land, should be delineated and shown as stated in paragraph 1 of the order. Therefore, exchange land which is being acquired compulsorily and is to be vested in the owner(s) of the order land, should be delineated and shown (e.g. in green) on the order map and described in schedule 2 to the order. If the exchange land is not being acquired compulsorily it should be described in schedule 3.
- 240.3 When an authority make an order in accordance with [Form 2](#), if the exchange land is also acquired compulsorily, the order should include paragraph 2(ii), adapted as necessary, and cite the relevant acquisition power, if different from the power cited in respect of the order land. Paragraph 2(ii) of the Form also provides for the acquisition of land for the purpose of giving it in part exchange, e.g. where the acquiring authority already own some of the exchange land.
- 240.4 In [Form 2](#), there are different versions of paragraphs 4 and 5(2) (see Note (j)). Paragraph 4 of [Form 2](#) defines the order land by reference to schedule 1 and either:
- a) where the order land is only part of the land being acquired, the specific, 'numbered' plots
 - b) where the order land is all the land being acquired, the land which is 'described'

- 240.5 But if the acquiring authority seek a certificate under [paragraph 6\(1\)\(b\) of Schedule 3 to the Acquisition of Land Act 1981](#), because they propose to provide additional land in respect of new rights being acquired (over 'rights land'), the order should include paragraph 5(1) and the appropriate paragraph 5(2) of the [Form](#) (see Note (j)). Paragraph 5 becomes paragraph 4 if only new rights are to be acquired compulsorily. (See [Section 21: Compulsory purchase of new rights and other interests](#)) in relation to additional land being given in exchange for a new right.)
- 240.6 Where [Form 2](#) is used, the order land, including rights land, must always be described in Schedule 1 to the order. Exchange and additional land should be described in Schedule 2 to the order where it is being acquired compulsorily; in Schedule 3 to the order where the acquiring authority do not need to acquire it compulsorily; or both schedules may apply, e.g. the authority may only own part of the exchange and/or additional land. Schedule 3 becomes Schedule 2 if no exchange or additional land is being acquired compulsorily. Exchange or additional land which is not being acquired compulsorily should be delineated and shown on the map so as to clearly distinguish it from land which is being acquired compulsorily.
- 240.7 Paragraph 4 of [Form 3](#) should identify the order land, by referring to either:
- a) paragraph 2, where the order land is all the land being acquired
 - b) specific numbered plots in the schedule, where the order land is only part of the land being acquired
- 240.8 This form may also be used if new rights are to be acquired but additional land is not being provided. An order in this form will discharge the order land, or land over which new rights are acquired, from the rights, trusts and incidents to which it was previously subject (in the case of land over which new rights are acquired, only so far as the continuance of those rights, trusts and incidents would be inconsistent with the exercise of the new rights).
- 240.9 An order may not discharge land from rights etc. if the acquiring authority seek a certificate in terms of [section 19\(1\)\(aa\)](#) of or [paragraph 6\(1\)\(aa\) of Schedule 3](#) to the Acquisition of Land Act 1981. (See also [In what circumstances might an application for a certificate under section 19\(1\)\(aa\) of the Acquisition of Land Act 1981 be appropriate?](#) and [In which circumstances may a certificate be given?](#).) Note that the extinguishment of rights of common over land acquired compulsorily may require consent under [section 22 of the Commons Act 1899](#).

241 What is the procedure for sealing, signing and dating orders?

- 241.1 All compulsory purchase orders should be made under seal, duly authenticated and dated at the end (after the schedule). They should never be dated before they are sealed and signed, and should be sealed, signed and dated on the same day. The order map(s) should similarly be sealed, signed and dated on the same day as the order. Authorities may wish to consider whether they ought to amend their standing orders or delegations to ensure that this is achieved.

241.2 Authorities may also wish to check whether their standing orders and constitution allow for compulsory purchase orders to be made under seal, signed and dated electronically.

Section 17: Compulsory purchase order maps

242 What information should compulsory purchase order maps provide?

- 242.1 Order maps should provide details of the land proposed to be acquired, land over which a new right would subsist and exchange land in accordance with the requirements set out in the [notes to the Forms](#) e.g. paragraph (g) of the notes that accompany both [Forms 1 and 2](#).
- 242.2 The heading of the map (or maps) should agree in all respects with the description of the map headings stated in the body of the order. The words 'map referred to in [*order title*]' should be included in the actual heading or title of the map(s).
- 242.3 Land may be identified on order maps by colouring or any other method (see Note (g) to [Forms 1, 2 and 3](#) and, in relation to exchange land, Note (h) to [Form 5](#) in the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (as amended)²⁴) at the discretion of the acquiring authority. Where it is decided to use colouring, the longstanding convention (without statutory basis) is that land proposed to be acquired is shown pink, land over which a new right would subsist is shown blue, and exchange land is shown green. Where black-and-white copies are used they must still provide clear identification of the order or exchange land.
- 242.4 The use of a sufficiently large scale, Ordnance Survey based map is most important and it should not generally be less than 1/1250 (1/2500 in rural areas). Where the map includes land in a densely populated urban area, experience suggests that the scale should be at least 1/500, and preferably larger. Where the order involves the acquisition of a considerable number of small plots, the use of insets on a larger scale is often helpful. If more than one map is required, the maps should be bound together and a key or master 'location plan' should indicate how the various sheets are interrelated.
- 242.5 Care should be taken to ensure that where it is necessary to have more than one order map, there are appropriate references in the text of the order to all of them, so that there is no doubt that they are all order maps. If it is necessary to include a location plan, then it should be purely for the purpose of enabling a speedy identification of the whereabouts of the area to which the order relates. It should be the order map and *not* the location plan which identifies the boundaries of the land to be acquired. Therefore, whilst the order map would be marked 'Map referred to in... 'in accordance with the prescribed form' (as in [Form 1](#)), a location map might be marked 'Location plan for the Map referred to in...' Such a location plan would not form part of the order and order map, but be merely a supporting document.
- 242.6 It is also important that the order map should show such details as are necessary to relate it to the description of each parcel of land in the order schedule or schedules. This may involve marking on the map the names of roads and places or local landmarks not otherwise shown.

²⁴ The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by The [Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) \(Amendment\) Regulations 2024](#)

- 242.7 The boundaries between plots should be clearly delineated and each plot separately numbered to correspond with the order schedule(s). (For orders which include new rights, see [Section 21: Compulsory purchase of new rights and other interests](#).) Land which is delineated on the map, but which is not being acquired compulsorily should be clearly distinguishable from land which is being acquired compulsorily.
- 242.8 There should be no discrepancy between the order schedule(s) and the map or maps, and no room for doubt on anyone's part as to the precise areas of land which are included in the order. Where there is a minor discrepancy between the order and map confirming, the authority may be prepared to proceed on the basis that the boundaries to the relevant plot or plots are correctly delineated on the map. Where uncertainty over the true extent of the land to be acquired causes or may cause difficulties, the confirming authority may refuse to confirm all or part of the order.

Section 18: Addresses

243 Where should orders, applications and objections be sent?

Department	Type of order or application	Address
Ministry of Housing, Communities and Local Government	<p>Most orders for which the Secretary of State for Housing, Communities, and Local Government is confirming authority</p> <p>Applications for certificates relating to open space under section 19 of, or paragraph 6 of Schedule 3 to, the Acquisition of Land Act 1981</p>	<p>Ministry of Housing, Communities and Local Government Planning Casework Unit 23 Stephenson Street Birmingham B2 4BH Email: pcu@communities.gov.uk</p>
Ministry of Housing, Communities, and Local Government	<p>Applications for certificates relating to fuel or field garden allotments under section 19 of, or paragraph 6 of Schedule 3 to, the Acquisition of Land Act 1981</p>	<p>Ministry of Housing, Communities and Local Government Planning Casework Unit 23 Stephenson Street Birmingham B2 4BH Email: pcu@communities.gov.uk</p>
Department for Environment, Food and Rural Affairs	<p>Applications for certificates relating to common land, town or village greens under section 19 of, or paragraph 6 of Schedule 3 to, the Acquisition of Land Act 1981</p>	<p>Common Land Casework The Planning Inspectorate 3F Hawk Wing Temple Quay House 2 The Square Bristol BS1 6PN Email: commonlandcasework@planninginspectorate.gov.uk</p>
Department for Environment, Food and Rural Affairs	<p>Orders for <i>waste disposal</i> purposes</p>	<p>Secretary of State for Environment, Food and Rural Affairs Waste Strategy & Management Seacole Building 2 Marsham Street London SW1P 4DF</p>

Department for Environment, Food and Rural Affairs	Orders made by <i>water or sewerage</i> undertakers	Secretary of State for Environment, Food and Rural Affairs Water Programme Seacole Building 2 Marsham Street London SW1P 4DF
Department for Environment, Food and Rural Affairs	Orders made under section 62(2) of the Land Drainage Act 1991, relating to sewerage or flood defence (land drainage) functions by a local authority, and orders made by internal drainage boards under section 62(1)(b) of that Act	Secretary of State for Environment, Food and Rural Affairs Water and Flood Risk Management Seacole Building 2 Marsham Street London SW1P 4DF
Department for Environment, Food and Rural Affairs	Orders made by the Environment Agency in relation to its flood defence functions, or by local authorities under Part I of the Coast Protection Act 1949 relating to coast protection work	Secretary of State for Environment, Food and Rural Affairs Water and Flood Risk Management Seacole Building 2 Marsham Street London SW1P 4DF
Department for Transport	Orders made under the Highways Act 1980 or the Road Traffic Regulation Act 1984	Secretary of State for Transport National Transport Casework Team Department for Transport Tyneside House Skinnerburn Road Newcastle upon Tyne NE4 7AR
Department for Transport	Airports, and airport Public Safety Zones orders	Secretary of State for Transport Aviation Policy & Reform Zone 1/25, Great Minster House 33 Horseferry Road London SW1P 4DR

Department for Transport	Civil aviation orders under the Civil Aviation Act 2012 and the Airports Act 1986	Secretary of State for Transport Aviation Policy & Security Reform, Department for Transport Zone 1/25, Great Minster House 33 Horseferry Road London SW1P 4DR
OTHER CONFIRMING AUTHORITIES - for other confirming authorities the correspondence should be addressed to the appropriate Secretary of State. The following addresses may be helpful.		
Department for Education		Real Estate Team Education and Skills Funding Agency Bishopsgate House Darlington DL1 5QE
Department of Health and Social Care	For NHS and civil estate occupied by DH	Richmond House 79 Whitehall London SW1A 2NS
Home Office		2 Marsham Street London SW1P 4DF
Department for Culture, Media & Sport	Orders relating to: (a) listed buildings (b) public libraries and museums	100 Parliament Street London SW1A 2BQ
Department for Work and Pensions	for Benefits Agency	BA Estates 1 Trevelyan Square Boar Lane Leeds LS1 6AB
Department for Energy Security and Net Zero	Electricity and gas undertakings Onshore Electricity Development Consents	Licensing and Consents Unit 3 Whitehall Place London SW1A 2AW

Procedural issues applying to some compulsory purchase orders

Section 19: For community assets (at the request of the community or a local body)

244 What requests can be made to a local authority?

- 244.1 Authorities can receive requests from the community or local bodies to use their compulsory purchase powers to acquire community assets, which may have been designated as [Assets of Community Value](#), that are in danger of being lost where the owner of the asset is unwilling to sell or vacant commercial properties that are detracting from the vitality of an area.

245 What considerations need to be made when receiving a request?

- 245.1 Local authorities should consider all requests from third parties, but particularly voluntary and community organisations, and commercial groupings like Business Improvement District bodies, which put forward a scheme for a particular asset which would require compulsory purchase to take forward, and provide a formal response.
- 245.2 Local authorities must be able to finance the cost of the scheme (including the compensation to the owner) and the compulsory purchase order process either from their own resources, or with a partial or full contribution from those making the request.
- 245.3 Local authorities should, for example, ascertain the value of the asset to the community, or the effect of bringing it back into use; the perceived threat to the asset; the future use of the asset and who would manage it (including a business plan where appropriate); any planning issues; and how the acquisition would be financed.

Section 20: Special kinds of land

246 What are 'special kinds of land'?

- 246.1 Certain special kinds of land are afforded some protection against compulsory acquisition (including compulsory acquisition of new rights across them) by providing that the confirmation of a compulsory purchase order including such land may be subject to [special parliamentary procedure](#). The 'special kinds of land' are set out in Part 3 of, and Schedule 3 to, the [Acquisition of Land Act 1981](#) ("the 1981 Act") and are:
- a) land acquired by a statutory undertaker for the purposes of their undertaking ([section 16](#) and [Schedule 3, paragraph 3](#)) (see [What protection is given by section 16 of the Acquisition of Land Act 1981?](#))
 - b) local authority owned land; or land acquired by any body except a local authority who are, or are deemed to be, statutory undertakers for the purposes of their undertaking ([section 17](#) and [Schedule 3, paragraph 4](#)) (see [What protection is given by section 17 of the Acquisition of Land Act 1981?](#))
 - c) land held by the National Trust inalienably ([section 18](#) and [Schedule 3, paragraph 5](#)) (see [What protection is given by section 18 of the Acquisition of Land Act 1981?](#))
 - d) land forming part of a common, open space, or fuel or field garden allotment ([section 19](#) and [Schedule 3, paragraph 6](#)) (see [What protection is given by section 19 of the Acquisition of Land Act 1981?](#))

247 Which bodies are defined as statutory undertakers under the Acquisition of Land Act 1981?

- 247.1 [Section 8\(1\) of the 1981 Act](#) defines 'statutory undertakers' for the *general* purposes of the Act. These include:
- transport undertakings (rail, road, water transport)
 - docks, harbours, lighthouses
 - Civil Aviation Authority and National Air Traffic Services
 - Universal postal service providers
- 247.2 British Telecom is not a statutory undertaker for the purposes of the 1981 Act. Private bus operators, other road transport operators, taxi and car hire firms which are authorised by licence are not statutory undertakers for the purposes of the 1981 Act. Where their operations are carried out under the specific authority of an act, however, such operators will fall within the definition in [section 8\(1\) of the 1981 Act](#).

247.3 In addition, other bodies may be defined as, or deemed to be, statutory undertakers for the purposes of [section 16 of the 1981 Act](#) (various health service bodies) or [section 17 of the 1981 Act](#) (e.g. Homes England - see [What protection is given by section 17 of the Acquisition of Land Act 1981?](#)).

248 What protection is there for statutory undertakers' land?

248.1 [Sections 16](#) and [17](#) of the 1981 Act provide protection for statutory undertakers' land.

248.2 In both cases, the land must have been acquired for the purposes of the undertaking. The provisions do not apply if the land was acquired for other purposes which are not directly connected to the undertakers' statutory functions. Before making a representation to the appropriate Minister under section 16, or an objection in respect of land to which they think [section 17](#) applies, undertakers should take particular care over the status of the land which the acquiring authority propose to acquire, have regard to the provisions of the relevant act, and seek their own legal advice as may be necessary. For example, whilst a gas transporter qualifies as a statutory undertaker, the protection under [sections 16](#) and [17](#) would not apply in relation to non-operational land held by one, e.g. their administrative offices. In the circumstances, the land is not held for the purpose of the statutory provision: namely, the conveyance of gas through pipes to any premises or to a pipeline system operated by a gas transporter.

249 What protection is given by section 16 of the Acquisition of Land Act 1981?

249.1 Under [section 16 of the 1981 Act](#), statutory undertakers who wish to object to the inclusion in a compulsory purchase order of land which they have acquired for the purposes of their undertaking, may make representations to 'the appropriate Minister'. This is the minister operationally responsible for the undertaker, e.g. in the case of a gas transporter or electricity licence holder, the Secretary of State for Energy Security and Net Zero. Such representations must be made within the period stated in the public and personal notices, i.e. not less than twenty-one days, as specified in the 1981 Act.

249.2 A representation made by statutory undertakers under [section 16](#) is quite separate from an objection made within the same period to the confirming authority. Where the appropriate Minister is also the confirming authority the intention of the statutory undertakers should be clearly stated, particularly where it is intended that a single letter should constitute both a section 16 representation and an objection. The appropriate Minister would also be the confirming authority where, for example, an airport operator under [Part 5 of the Airports Act 1986](#) makes a section 16 representation to the Secretary of State for Transport about an order made under [section 239 of the Highways Act 1980](#).

250 Can an order be confirmed where a representation under section 16 of the Acquisition of Land Act 1981 is not withdrawn?

250.1 Generally, where a representation under [section 16 of the 1981 Act](#) is not withdrawn, the order to which it relates may not be confirmed (or made, where the acquiring authority is a minister) so as to include the interest owned by the statutory undertakers unless the appropriate Minister gives a certificate in the terms stated in [section 16\(2\)](#). These are either that:

- the land can be taken without serious detriment to the carrying on of the undertaking ([section 16\(2\)\(a\)](#))
- if taken it can be replaced by other land without serious detriment to the undertaking ([section 16\(2\)\(b\)](#))

However, by virtue of [section 31\(2\) of the 1981 Act](#), an order made under any of the powers referred to in [section 31\(1\) of the 1981 Act](#) may still be confirmed where:

- a representation has been made under [section 16\(1\)](#) without an application for a [section 16\(2\)](#) certificate, or where such an application is refused
- the confirmation is undertaken jointly by the appropriate Minister and the confirming authority

251 What protection is given by section 17 of the Acquisition of Land Act 1981?

251.1 [Section 17\(2\) of the 1981 Act](#) provides that for an order acquiring land owned by a local authority or statutory undertaker, if that authority or undertaker objects, any confirmation would be subject to [special parliamentary procedure](#).

251.2 However, [section 17\(3\) of the 1981 Act](#) excludes the application of [section 17\(2\)](#) if the acquiring authority is one of the bodies referred to in [section 17\(3\)](#) which includes a local authority, urban development corporation, Mayoral development corporation, and any statutory undertaker as defined in [section 17\(4\) of the 1981 Act](#). The application of [section 17\(2\)](#) will therefore, be very limited.

251.3 The Secretary of State may by order under [section 17\(4\) of the 1981 Act](#) extend the definition of statutory undertaker for the purposes of [section 17\(3\)](#) to include any other authority, body or undertaker. Also, some authorities have been defined as statutory undertakers for the purposes of [section 17\(3\)](#) by primary legislation. Examples of such provisions are:

- a) a housing action trust – Housing Act 1988, [section 78](#) and [Schedule 10, paragraph 3](#)
- b) Homes England – Housing and Regeneration Act 2008, [section 9\(6\)](#) and [Schedule 2, paragraph 1\(2\)](#)

252 What protection is given by section 18 of the Acquisition of Land Act 1981?

252.1 Where an order seeks to authorise the compulsory purchase of land belonging to and held inalienably by the National Trust (as defined in [section 18\(3\) of the 1981 Act](#)), it will be subject to [special parliamentary procedure](#) if the Trust has made, and not withdrawn, an objection in respect of the land so held.

253 What protection is given by section 19 of the Acquisition of Land Act 1981?

253.1 Compulsory purchase orders may sometimes include land or rights over land which is, or forms part of, a common, open space, or fuel or field garden allotment. Under the [Acquisition of Land Act 1981](#):

- 'common' includes any land subject to be enclosed under the Inclosure Acts 1845 to 1882, and any town or village green; the definition therefore includes, but may go wider than, land registered under the [Commons Registration Act 1965](#)
- 'open space' means any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground
- 'fuel or field garden allotment' means any allotment set out as a fuel allotment, or field garden allotment, under an Inclosure Act

253.2 An order which authorises purchase of any such land will be subject to [special parliamentary procedure](#) unless the relevant Secretary of State (see [Who should an acquiring authority apply to for a certificate under section 19 of the 1981 Act 1981?](#)) gives a certificate under [section 19 of the 1981 Act](#) indicating the Secretary of State's satisfaction that either:

- exchange land is being given which is no less in area and equally advantageous as the land taken ([section 19\(1\)\(a\)](#))
- that the land is being purchased to ensure its preservation or improve its management ([section 19\(1\)\(aa\)](#))
- that the land is 250 sq. yards (209 square metres) or less in area or is for the widening and/or drainage of an existing highway **and** that the giving of exchange land is unnecessary ([section 19\(1\)\(b\)](#))

253.3 Likewise, an order which authorises the purchase of new rights over such land will be subject to special parliamentary procedure unless the relevant Secretary of State gives a certificate under [paragraph 6 of Schedule 3 to the 1981 Act](#) (see also [Section 21: Compulsory purchase of new rights and other interests](#)).

254 Who should an acquiring authority apply to for a certificate under section 19 of and/or Schedule 3 to the Acquisition of Land Act 1981?

254.1 An acquiring authority requiring a certificate from the relevant Secretary of State under [section 19 of](#), and/or [paragraph 6 of Schedule 3 to](#), the 1981 Act, should apply as follows:

- common land – Secretary of State for Environment, Food and Rural Affairs
- open space – Secretary of State who has responsibility for housing and planning matters
- fuel or field garden allotments – Secretary of State who has responsibility for housing and planning matters

Contact details can be found in [Section 18: Addresses](#).

255 When should acquiring authority apply for a certificate under section 19 of and/or Schedule 3 to the Acquisition of Land Act 1981?

255.1 Applications for certificates should be made when the order is submitted for confirmation or, in the case of an order prepared in draft by a minister, when notice is published and served in accordance with [paragraphs 2 and 3 of Schedule 1 to the 1981 Act](#).

256 What information should be provided when applying for a certificate under section 19 of and/or Schedule 3 to the Acquisition of Land Act 1981?

256.1 The land, including any new rights, should be described in detail, by reference to the compulsory purchase order, and all the land clearly identified on an accompanying map.

256.2 This should show the common/open space/fuel or field garden allotment plots to be acquired in the context of the common/open space/fuel or field garden allotment space as a whole, and in relation to any proposed exchange land.

256.3 The acquiring authority should also provide copies of the order, including the schedules, and order map. For a particularly large order, they may provide:

- a) copies of the order and relevant parts or sheets of the map
- b) a copy, or copies, of the relevant extract or extracts from the order schedule or schedules, which include the following:
 - (i) the plot(s) of common, open space etc. which they propose to acquire or over which they propose to acquire a new right ('the order land')
 - (ii) any land which they propose to give in exchange ('the exchange land')

- 256.4 Where [paragraph 6\(1\)\(b\) of Schedule 3 to the 1981 Act](#) applies and additional land is being given in exchange for a new right, substitute ‘the rights land’ and ‘the additional land’ for the definitions given in (i) and (ii) above, respectively.
- 256.5 When drafting an order, careful attention should be given to the discharging and vesting provisions of [section 19\(3\) of the 1981 Act](#) or of [paragraph 6\(4\) of Schedule 3 to the 1981 Act](#).
- 256.6 It must be specified under which subsection(s) an application for a certificate is made e.g. [section 19\(1\)\(a\), \(aa\) or \(b\),v](#) and/or [paragraph 6\(1\)\(a\), \(aa\), \(b\) or \(c\) of Schedule 3](#). Where an application is under more than one subsection, this should be stated, specifying those plots that each part of the application is intended to cover. Where an application is under [section 19\(1\)\(b\)](#), it should be stated whether it is made on the basis that the land does not exceed 209 square metres (250 square yards) or under the highway widening or drainage criterion. In writing, careful attention should be given to the particular criteria in [section 19](#) and/or [paragraph 6 of Schedule 3](#) that the relevant Secretary of State will be considering. The information provided should include:
- the name of the common or green involved (including CL/VG number)
 - the plots numbers and their areas, in square metres
 - details of any rights of common registered, or rights of public access, and the extent to which they are exercise
 - the purpose of the acquisition
 - details of any special provisions or restrictions affecting any of the land in the application
 - any further information which supports the case for a certificate

257 How will the relevant Secretary of State decide whether to grant a certificate under section 19 of and/or Schedule 3 to the Acquisition of Land Act 1981?

- 257.1 In most cases, arrangements will be made for the order/rights land to be inspected and, if applicable, for a preliminary appraisal of the merits of any proposed exchange/additional land. If, at this stage, the relevant Secretary of State is satisfied that a certificate could, in principle, be given, the Secretary of State will direct the acquiring authority to publish notice of the Secretary of State’s *intention* to give a certificate, with details of the address to which any representations and objections may be submitted. In most cases where there are objections, the matter will be considered by the inspector at the inquiry into the compulsory purchase order.

257.2 Where an inquiry has been held into the application for a certificate (including, where applicable, the merits of any proposed exchange/additional land), the inspector will summarise the evidence in their report and make a recommendation. The relevant Secretary of State's consideration of and response to the inspector's recommendation are subject to the statutory inquiry procedure rules which apply to the compulsory purchase order. Where there is no inquiry, the relevant Secretary of State's decision on the certificate will be made having regard to an appraisal by an inspector or a professionally qualified planner, and after taking into account the written representations from any objectors and from the acquiring authority.

258 When must a certificate under section 19 of and/or Schedule 3 to the Acquisition of Land Act 1981 be declined by the relevant Secretary of State?

258.1 The relevant Secretary of State must decline to give a certificate if the Secretary of State is not satisfied that the requirements of the section have been complied with. Where exchange land is to be provided for land used by the public for recreation, the relevant Secretary of State will have regard (in particular) to the case of *LB Greenwich and others v Secretary of State for the Environment, and Secretary of State for Transport (East London River Crossing: Oxleas Wood)* [1994] J.P.L. 607).

259 What matters does the relevant Secretary of State take into account when considering a certificate for 'exchange land' under section 19(1)(a) of the Acquisition of Land Act 1981?

259.1 Where a certificate would be in terms of [section 19\(1\)\(a\) of the 1981 Act](#), the exchange land must be:

- **no less** in area than the order land
- equally advantageous to any persons entitled to rights of common or to other rights, and to the public

259.2 Depending on the particular facts and circumstances, the relevant Secretary of State may have regard to such matters as relative size and proximity of the exchange land when compared with the order land. The date upon which equality of advantage is to be assessed is the date of exchange. (See [paragraphs 5 and 6 of Form 2 in the Schedule to the Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) Regulations 2004 \(as amended\)](#)²⁵.) But the relevant Secretary of State may have regard to any prospects of improvement to the exchange land which exists at that date.

259.3 Other issues may arise about the respective merits of an order and exchange land. The latter may not possess the same character and features as the order land, and it may not offer the **same** advantages, yet the advantages offered may be sufficient to provide an overall equality of advantage. But land which is already subject to rights of common or to other rights, or used by the public, even informally, for recreation, cannot usually be given as exchange land, since this would reduce the amount of such land, which would be disadvantageous to the persons concerned.

²⁵ The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by The [Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) \(Amendment\) Regulations 2024](#)

There may be some cases, where a current use of proposed exchange land is temporary, e.g., ending development. In such circumstances it may be reasonable to give the land in exchange since its current use can thereby be safeguarded for the future. The relevant Secretary of State will examine any such case with particular care.

260 What is the definition of ‘the public’ in regard to exchange land?

260.1 Regarding exchange land included in an order, the relevant Secretary of State takes the view that ‘the public’ means principally the section of the public which has hitherto benefited from the order land and, more generally, the public at large. But circumstances differ. For example, in the case of open space, a relatively small recreation ground may be used predominantly by local people, perhaps from a particular housing estate. In such circumstances, the relevant Secretary of State would normally expect exchange land to be equally accessible to residents of that estate. On the other hand, open space which may be used as a local recreational facility by some people living close to it, but which is also used by a wider cross-section of the public may not need to be replaced by exchange land in the immediate area. One example of such a case might be land forming part of a regional park.

261 In what circumstances might an application for a certificate under section 19(1)(aa) of the Acquisition of Land Act 1981 be appropriate?

- 261.1 In some cases, the acquiring authority may wish to acquire land to which [section 19 of the 1981 Act](#) applies, e.g. open space, but do not propose to provide exchange land because, after it is vested in them, the land will continue to be used as open space.
- 261.2 Typical examples might be where open space which is privately owned may be subject to development proposals resulting in a loss to the public of the open space; or where the local authority wish to acquire part or all of a privately owned common in order to secure its proper management.
- 261.3 Such a purpose might be ‘improvement’ within the sense of [section 226\(1\)\(a\) of the Town and Country Planning Act 1990](#), or a purpose necessary in the interests of proper planning ([section 226\(1\)\(b\)](#)). The land might be neglected or unsightly (see [Section 8: To improve the appearance or condition of land](#)), perhaps because the owner is unknown, and the authority may wish to provide, or to enable provision of, proper facilities. Therefore, the acquisition or enabling powers and the specific purposes may vary. In such circumstances, i.e. where the reason for making the order is to secure preservation or improve management of land to which [section 19 of the 1981 Act](#) applies, a certificate may be given in the terms of section 19(1)(aa).
- 261.4 NB: Where the acquiring authority seek a certificate in terms of [section 19\(1\)\(aa\)](#), [section 19\(3\)\(b\) of the 1981 Act](#) cannot apply and the order may not discharge the land purchased from all rights, trusts and incidents to which it was previously subject. See also [Section 16: Preparing and serving the order and notices](#).

262 What factors does the relevant Secretary of State have to consider when giving a certificate under section 19(1)(b) of the Acquisition of Land Act 1981?

262.1 A certificate can only be given in terms of [section 19\(1\)\(b\) of the 1981 Act](#) where the relevant Secretary of State concerned is persuaded that the land is 250 square yards (209 square metres) or less in area or is for the widening and/or drainage of an existing highway **and** that the giving of exchange land is unnecessary. The relevant Secretary of State will have regard to the overall extent of common land, open space land or fuel or field garden allotment land being acquired compulsorily. Where all or a large part of such land would be lost, the relevant Secretary of State may be reluctant to certify in terms of [section 19\(1\)\(b\)](#). Should the relevant Secretary of State refuse such a certificate, it would remain open to the acquiring authority to consider providing exchange land and seeking a certificate in terms of [section 19\(1\)\(a\) of the 1981 Act](#).

263 What is special parliamentary procedure?

263.1 If an order includes land whose acquisition is subject to special parliamentary procedure, any confirmation of the order by the confirming authority would be made subject to that procedure. This means that if the order is being confirmed so as to include the special category land, the acquiring authority will not be able to publish and serve notice of confirmation in the usual way. The order will, instead, be governed by the procedures set out in [the Statutory Orders \(Special Procedure\) Acts 1945 and 1965](#) (as amended by the [Growth and Infrastructure Act 2013](#)). The confirming authority will give full instructions at the appropriate time.

263.2 In brief, the special parliamentary procedure is:

- following the confirming authority's decision to confirm, after giving 3 days' notice in the London Gazette, the order is laid before Parliament
- if a petition against the special authorisation is lodged within a 21 day period, it will be referred to a Joint Committee of both Houses to consider and report to Parliament as to whether to approve
- if no petition is lodged, the confirmation is usually approved without such referral

Section 21: Compulsory purchase of new rights and other interests

264 Is it possible to compulsorily acquire rights and other interests over land, without acquiring full land ownership?

264.1 There are powers available which provide for the compulsory acquisition of new rights over land where full land ownership is not required e.g. the compulsory creation of a right of access.

265 How can compulsory acquisition of rights over land be achieved?

265.1 The creation of new rights can only be achieved using a specific statutory power, known as an 'enabling power'. Powers include (with the bodies by whom they may be exercised) the following:

- (i) [Local Government \(Miscellaneous Provisions\) Act 1976, section 13](#) (local authorities)
- (ii) [Highways Act 1980, section 250](#) (all highway authorities) - guidance on the use of these powers is given in Department of Transport *Local Authority Circular 2/97: Notes on the preparation, drafting and submission of compulsory purchase orders for highway schemes and car parks for which the Secretary of State for Transport is the confirming authority*
- (iii) [Water Industry Act 1991, section 155\(2\)](#) (water and sewerage undertakers)
- (iv) [Water Resources Act 1991, section 154\(2\)](#) and [Environment Act 1995, section 2\(1\)\(a\)\(iv\)](#) (Environment Agency)
- (v) [Housing and Regeneration Act 2008, section 9\(2\)](#) (Homes England)
- (vi) [Electricity Act 1989, Schedule 3](#) (electricity undertakings)
- (vii) [Gas Act 1986, Schedule 3](#) (gas transporter undertakings)

265.2 The acquiring authority should take into account any special requirements which may apply to the use of any particular power.

Orders solely for new rights (no other interests in land to be purchased outright)

266 What should the order describe?

266.1 The order heading should mention the appropriate enabling power, together with the [Acquisition of Land Act 1981](#) ("the 1981 Act").

266.2 Paragraph 1 of the order should describe the purpose for which the rights are required, e.g. 'for the purpose of providing an access to a community centre which the council are authorised to provide under section 19 of the Local Government (Miscellaneous Provisions) Act 1976'.

Orders for new rights and other interests

267 What should an order describe where it relates to the purchase of new rights and of other interests in land under different powers?

267.1 The order heading should refer to the appropriate enabling act, any other act(s), and the [Acquisition of Land Act 1981](https://www.legislation.gov.uk/ukpga/1981/67/contents)²⁶<https://www.legislation.gov.uk/ukpga/1981/67/contents>, as required by the regulations. See Note (b) to [Forms 1, 2 and 3 in the Schedule to the Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) Regulations 2004 \(as amended\)](#)²⁶.

267.2 Paragraph 1 of the prescribed form of the order should describe all the relevant powers and purposes.

268 What if the purpose is the same for both new rights and other interests?

268.1 This should be relatively straightforward. The order should mention, e.g.:

‘ the acquiring authority is hereby authorised to compulsorily purchase

(a) under section 121 of the Local Government Act 1972 the land described in paragraph 2(1) below for the purpose of providing a community centre under section 19 of the Local Government (Miscellaneous Provisions) Act 1976; and

(b) under section 13 of the said act of 1976, the new rights which are described in paragraph 2(2) below for the same purpose

[etc., as in [Form 1 of the Schedule to the Regulations](#).]

269 What if the purpose is not the same for the new rights and other interests?

269.1 Paragraph 1 of the prescribed form of the order should describe all of the relevant powers under, and purposes for which, the order has been made, e.g.:

‘ the acquiring authority is hereby authorised to compulsorily purchase

(a) under section 89 of the National Parks and Access to the Countryside Act 1949 the derelict, neglected or unsightly land which is described in paragraph 2(1) below for the purpose of carrying out such works on the land as appear to them expedient for enabling it to be brought into use; and

(b) under section 13 of the Local Government (Miscellaneous Provisions) Act 1976, the new rights which are described in paragraph 2(2) below for the purpose of providing an access to the abovementioned land for *[the authority]* and persons using the land, being a purpose which it is necessary to achieve in the interests of the proper planning of an area, in accordance with section 226(1)(b) of the Town and Country Planning Act 1990.’

²⁶ The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by The [Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) \(Amendment\) Regulations 2024](#)

270 What should the acquiring authority's statements of reasons and case explain?

- 270.1 They should explain the need for the new rights, give details of their nature and extent, and provide any further relevant information. Where an order includes new rights, the acquiring authority is also asked to bring that fact to the attention of the confirming authority in the letter covering their submission.

Schedule and map

271 What should the order schedule show?

- 271.1 The land over which each new right is sought needs to be shown as a separate plot in the order schedule.

272 What level of detail does this require?

- 272.1 The nature and extent of each new right should be described and where new rights are being taken for the benefit of a plot or plots, that fact should be stated in the description of the rights plots. It would be helpful if new rights could be described immediately before or after any plot to which they relate; or, if this is not practicable, e.g. where there are a number of new rights, they could be shown together in the schedule with appropriate cross-referencing between the related plots.

273 What does the order map need to show?

- 273.1 The order map should clearly distinguish between land over which new rights would subsist and land in which it is proposed to acquire other interests. (See [note \(g\) to Forms 1, 2 and 3 or Note \(e\) to Forms 4, 5 and 6.](#))
- 273.2 Special kinds of land (commons, open space and fuel or field garden allotment) (see also [Section 16: Preparing and serving the order and notices](#) and [Section 20: Special kinds of land](#)).

274 Which part of the Acquisition of Land Act 1981 applies where a new right over special kind of land is being acquired compulsorily?

- 274.1 [Paragraph 6 of Schedule 3 to the 1981 Act](#) applies (in the same way that [section 19 of that Act](#) applies to the compulsory purchase of [any land forming part of a common, open space etc.](#)). The order will be subject to [special parliamentary procedure](#) unless the relevant Secretary of State gives a certificate, in the relevant terms, under [paragraph 6\(1\) and \(2\) of Schedule 3 to the 1981 Act](#).

275 In which circumstances may a certificate be given?

275.1 A certificate may be given by the relevant Secretary of State in the following circumstances:

- the land burdened with the right will be no less advantageous than before to those persons in whom it is vested and other persons, if any, entitled to rights of common or other rights, and to the public ([paragraph 6\(1\)\(a\) of Schedule 3 to the 1981 Act](#))
- [paragraph 6\(1\)\(aa\)](#) – the right is being acquired in order to secure the preservation or improve the management of the land. Where an acquiring authority propose to apply for a certificate in terms of paragraph 6(1)(aa), they should note that the order cannot, in that case, discharge the land over which the right is to be acquired from all rights, trusts and incidents to which it has previously been subject (see also [Section 16: Preparing and serving the order and notices](#) and [Section 20: Special kinds of land](#))
- [paragraph 6\(1\)\(b\)](#) – additional land will be given in exchange for the right which will be adequate to compensate the persons mentioned in relation to paragraph 6(1)(a) above for the disadvantages resulting from the acquisition of the right and will be vested in accordance with the 1981 Act. Where an authority seek a certificate in terms of paragraph 6(1)(b) because they propose to give land ('the additional land') in exchange for the right, the order should include paragraph 4(1) and the appropriate [paragraph 4\(2\) of Form 2 in the Schedule to the Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) Regulations 2004 \(as amended\)²⁷ \(see Note \(j\)\)](#). The land over which the right is being acquired ('the rights land') and, where it is being acquired compulsorily, the additional land, should be delineated and shown as stated in paragraph 2 of the order. Paragraph 2 (ii) should be adapted as necessary (see also [Section 16: Preparing and serving the order and notices](#) and [Section 20: Special kinds of land](#))
- [paragraph 6\(1\)\(c\)](#)
 - (i) the land affected by the right to be acquired does not exceed 209 square metres (250 square yards)
 - (ii) in the case of an order made under the [Highways Act 1980](#), the right is required in connection with the widening or drainage, or partly with the widening and partly with the drainage, of an existing highway

and it is unnecessary, in the interests of persons, if any, entitled to rights of common or other rights or in the interests of the public, to give other land in exchange.

²⁷ The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by The [Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) \(Amendment\) Regulations 2024](#)

275.2 The same order may authorise the purchase of land forming part of a common, open space etc. and the acquisition of a new right over a different area of such land, and a certificate may be given in respect of each. The acquiring authority must always specify the type of certificate for which they are applying.

276 What other details needs to be shown where additional land, which is not being acquired compulsorily, is to be vested in the owners of the rights land?

276.1 The additional land should be delineated and shown on the order map (so as to clearly distinguish it from any land being acquired compulsorily) and described in Schedule 3 to the order. Schedule 3 becomes Schedule 2 if no other additional or exchange land is being acquired compulsorily.

277 What information has to be provided where and order, which does not provide for the vesting of additional land, but provides for discharging the rights land from all rights, trusts and incidents to which it has previously been subject (so far as their continuance would be inconsistent with the exercise of the right(s) to be acquired)?

277.1 The order needs to comply with [Form 3](#) and should include the reference in paragraph 4(3) of that Form (or, if appropriate, as adapted for [paragraph 4\(2\) of Form 6](#)) to land over which the new right is acquired. (See also [In which circumstances may a certificate be given?.](#))

Section 22: Compulsory purchase of Crown land

278 What is Crown land?

- 278.1 Crown land is defined in [section 293\(1\) of the Town and Country Planning Act 1990](#), [section 82C of the Planning \(Listed Buildings and Conservation Areas\) Act 1990](#) and [section 31 of the Planning \(Hazardous Substances\) Act 1990](#) (as amended), as any land in which the Crown (including the Duchies of Lancaster and Cornwall) has a legal interest is 'Crown land'.

279 Who is the 'appropriate authority'?

- 279.1 As appropriate, the government department having management of the land, the Crown Estate Commissioners, the Chancellor of the Duchy of Lancaster, or a person appointed by the Duke of Cornwall or by the possessor, for the time being, of the Duchy.

280 Can Crown land be compulsorily purchased?

- 280.1 As a general rule, Crown land cannot be compulsorily acquired, as legislation does not bind the Crown unless it states to the contrary.

281 Are there any exceptions to this?

- 281.1 Specific compulsory purchase enabling powers can make provision for their application to Crown land, for example:
- [section 327 of the Highways Act 1980](#) provides for a highway authority and the appropriate Crown authority to specify in an agreement that certain provisions of the Highways Act 1980 – including the compulsory purchase powers – shall apply to the Crown
 - [section 32 of the Coast Protection Act 1949](#) enables the compulsory purchase powers under Part I of that Act to apply to Crown land with the consent of the 'appropriate authority'
- 281.2 The enactments listed below (which is not an exhaustive list) also provide that interests in Crown land **which are not held by or on behalf of the Crown** may be acquired compulsorily if the appropriate authority agrees:
- [section 226\(2A\) of the Town and Country Planning Act 1990](#)
 - [section 47\(6A\) of the Planning \(Listed Buildings and Conservation Areas\) Act 1990](#)
 - [section 25 of the Transport and Works Act 1992](#)
 - [section 221 of the Housing Act 1996](#) (applicable to the Housing Act 1985, the Housing Associations Act 1985, Part 3 of the Housing Act 1988 and Part 7 of the Local Government and Housing Act 1989)

Issues for consideration

282 What issues should be considered?

- 282.1 Where the order is made under a power to which the provisions mentioned in [Are there any exceptions to this?](#) relate, or under any other enactment which provides for compulsory acquisition of interests in Crown land, Crown land should only be included where the acquiring authority has obtained (or is, at least, seeking) agreement from the appropriate authority. The confirming authority will have no power to authorise compulsory acquisition of the relevant interest or interests without such agreement.
- 282.2 Where an order is made under powers other than the Highways Act 1980, however, the acquiring authority should identify the relevant Crown body in the appropriate column of the order schedule and describe the interest(s) to be acquired. If the acquiring authority wish to acquire all interests other than those of the Crown, column two of the order schedule should specify that 'all interests' in [*describe the land*] except those held by or on behalf of the Crown' are being acquired. (See also [Section 16: Preparing and serving the order and notices](#)).

Section 23: Certificates of Appropriate Alternative Development

283 What is a certificate of appropriate alternative development?

- 283.1 Where existing permissions and assumptions are not sufficient to indicate properly the development value which would have existed were it not for the scheme underlying the compulsory purchase, [Part 3 of the Land Compensation Act 1961](#) (as amended by [Part 9 of the Localism Act](#) and [section 189 of the Levelling-up and Regeneration Act 2023](#)) (“the 1961 Act”) provides a mechanism for indicating a certain description of development (if any) for which planning permission can be assumed by means of a ‘certificate of appropriate alternative development’. The permission indicated in a certificate can briefly be described as that with which an owner might reasonably have expected to sell their land in the open market if it had not been publicly acquired.

284 Who can apply for a certificate of appropriate alternative development?

- 284.1 [Section 17\(1\) of the 1961 Act](#) provides that either the owner of the interest to be acquired or the acquiring authority may apply to the local planning authority for a certificate. Where an application is made for development of the relevant land together with other land it is important that the certificate sought relates only to the land in which the applicant is a directly interested party. The description of development specified in the application (and where appropriate the certificate issued in response) should clearly identify where other land is included and the location and extent of such other land.

285 In what circumstances might a certificate be helpful?

- 285.1 Circumstances in which certificates of appropriate alternative development may be helpful include where:
- a) there is no adopted development plan covering the land to be acquired
 - b) the adopted development plan indicates a ‘green belt’ or leaves the site without specific allocation
 - c) the site is allocated in the adopted development plan specifically for some public purpose, e.g. a new school or open space
 - d) the amount of development which would be allowed is uncertain
 - e) the extent and nature of planning obligations and conditions is uncertain

286 When does the right to apply for a certificate arise?

- 286.1 The right to apply for a certificate arises at the date when the interest in land is proposed to be acquired by the acquiring authority. [Section 22\(2\) and \(2A\) of the 1961 Act](#) describes the circumstances where this is the position. These include where a statutory notice of a compulsory purchase order, private or hybrid Bill authorising acquisition or other acquisition order has been published/served. For acquisition by blight notice or a purchase notice it will be the date on which 'notice to treat' is deemed to have been served; or for acquisition by agreement it will be the date of the written offer by the acquiring authority to negotiate for the purchase of the land. An application for a certificate of appropriate alternative development may still be made despite the acquisition of the interest in land having already occurred and before compensation is agreed or awarded. For example, where a general vesting declaration has been executed and possession of the land has been taken by the acquiring authority.
- 286.2 Once a compulsory purchase order has been confirmed and comes into operation the acquiring authority should be prepared to indicate the date of entry so that a certificate can sensibly be applied for.
- 286.3 An application for a certificate may be made at any time, except after a notice to treat has been served or agreement has been reached for the sale of the interest and a case has been referred to the Upper Tribunal. However, an application may be made after a referral has been made to the Upper Tribunal where both parties agree in writing or the Upper Tribunal gives permission. It will assist compensation negotiations if an application is made as soon as possible.
- 286.4 Acquiring authorities should ensure, when serving notice to treat in cases where a certificate could be applied for, that owners are made aware of their rights in the matter. In some cases, acquiring authorities may find it convenient themselves to apply for a certificate as soon as they make a compulsory purchase order or make an offer to negotiate so that the position is clarified quickly.
- 286.5 It may sometimes happen that, when proceedings are begun for acquisition of the land, the owner has already applied for planning permission for some development. If the local planning authority refuse planning permission or grant it subject to restrictive conditions and are aware of the proposal for acquisition, they should draw the attention of the owner to their right to apply for a certificate, as a refusal or restrictive conditions in response to an actual application (i.e. in the 'scheme world') do not prevent a certificate being issued by the local planning authority (which would relate to the 'no scheme world').

287 How should applications for a certificate be made and dealt with?

- 287.1 The manner in which applications for a certificate are to be made and dealt with has been prescribed in [articles 3, and 4, 5, 6 of the Land Compensation Development \(England\) Order 2012](#) (as amended²⁸) ("the 2012 Order").

²⁸ Amended by the Compulsory Purchase of Land (Vesting Declarations and Land Compensation Development Order) (England) (Amendment) Regulations 2024

- 287.2 [Article 3\(3\) of the 2012 Order](#) requires that if a local planning authority issues a certificate for development which is less extensive than the description of development given in the application, is contrary to representations made by the party directly concerned, or if it rejects the application, it must include a statement of the authority's reasons and of the right of appeal, and the time within which an appeal may be made under [section 18 of the 1961 Act](#). From 6 April 2012, this has been to the [Upper Tribunal](#). [Article 4 of the 2012 Order](#) requires the local planning authority (unless a unitary authority) to send a copy of any certificate to the county planning authority concerned if it specifies development related to a county matter or, if the case is one which has been referred to the county planning authority, to the relevant district planning authority. Where the certificate is issued by a London borough or the Common Council of the City of London, they must send a copy of the certificate to the Mayor of London if a planning application for such development would have to be referred to the Mayor of London.
- 287.3 [Article 4 of the 2012 Order](#) should be read with [paragraph 55 of Schedule 16 to the Local Government Act 1972](#), which provides that all applications for certificates must be made to the district planning authority in the first instance: if the application is for development that is a county matter, then the district must send it to the county for determination. This paragraph also deals with consultation between district and county authorities where the application contains some elements relating to matters normally dealt with by the other authority. Where this occurs, the authority issuing the certificate must notify the other of the terms of the certificate.
- 287.4 [Article 5 of the 2012 Order](#) requires the local planning authority, if requested to do so by the owner of an interest in the land, to inform the owner whether an application for a certificate has been made, and if so by whom, and to supply a copy of any certificate that has been issued. [Article 6 of the 2012 Order](#) provides for applications and requests for information to be made electronically.
- 288 What information should be contained in an application for a certificate?**
- 288.1 In an application made under [section 17 of the 1961 Act](#), the applicant may seek a certificate to the effect that there is a certain description of development that is appropriate alternative development for the purposes of [section 14\(2A\) of the 1961 Act](#) (as inserted by the Levelling-up and Regeneration Act 2023).
- 288.2 An application for a certificate made under [section 17 of the 1961 Act](#) must specify the description of development that the applicant considers planning permission would have been granted for and the applicant's reasons for holding that opinion. The onus is therefore on the applicant to substantiate the reasons why they consider that there is development that is appropriate alternative development. The application must also be accompanied by a statement which states the date on which a copy of the application has been, or will be, served on the other party directly concerned with the compulsory acquisition.
- 288.3 The phrase 'certain description of development' is intended to include the type and form of development. This will require the description of development to be 'specified' in the application which will need a degree of precision.

- 288.4 The purpose of a certificate is to assist in the assessment of the open market value of the land. Applicants should therefore consider carefully for what certain description of development they wish to apply for certificates. There is no practical benefit to be gained from making applications in respect of a description of development which does not maximise the value of the land. Applicants should focus on the description of development which will most assist in determining the open market value of the land.
- 288.5 An application under [section 17 of the 1961 Act](#) is not a planning application and applicants do not need to provide the detailed information which would normally be submitted with a planning application. However, applicants should give a specific description of development in the circumstances in order to ensure that any certificate issued is of practical assistance in the valuation exercise.
- 288.6 Applicants should set out a clear explanation of the type and scale of development that is sought in the certificate and a clear justification for this. This could be set out in a form of planning statement which might usefully cover the following matters:
- confirmation of the relevant planning date ([section 17\(1C\) of the 1961 Act](#)) at which the prospects of securing planning permission are to be assessed by the relevant planning authority - this will either be the relevant valuation date (defined in [section 5A of the 1961 Act](#)) or, if the relevant valuation date has yet to occur and the application is to be determined before that date, the date on which the application is determined
 - the type of uses that it considers should be included in the certificate including uses to be included in any mixed-use development which is envisaged as being included in the certificate
 - where appropriate, an indication of the quantum and/or density of development envisaged with each category of land
 - where appropriate an indication of the extent of built envelope of the development which would be required to accommodate the quantum of development envisaged
 - a description of the main constraints on development which could be influenced by a planning permission and affect the value of the land, including matters on site such as ecological resources or contamination, and matters off site such as the existing character of the surrounding area and development
 - an indication of what planning conditions or planning obligations the applicant considers would have been attached to any planning permission granted for such a development had a planning application been made at the valuation date

- a clear justification for its view that such a permission would have been forthcoming having regard to the planning policies and guidance in place at the relevant date; the location, setting and character of the site or property concerned; the planning history of the site and any other matters it considers relevant

288.7 Detailed plans are not required in connection with an application under [section 17 of the 1961 Act](#), however, applications should include a plan or map sufficient to identify the land to which the application relates ([article 3 of the 2012 Order](#)). Drawings or other illustrative material may be of assistance in indicating assumed access arrangements and site layout and in indicating the scale and massing of the assumed built envelope. An indication of building heights and assumed method of construction may also assist the local planning authority in considering whether planning permission would have been granted at the relevant date.

289 Is there a fee for submitting an application for a certificate of appropriate development?

289.1 A fee is payable for an application for a certificate of appropriate alternative development. Details are set out in [Regulation 18 of The Town and Country Planning \(Fees for Applications, Deemed Applications, Requests and Site Visits\) \(England\) Regulations 2012](#) (as amended). The costs incurred in connection with preparing and submitting an application for a certificate of appropriate alternative development under section 17 of the 1961 Act or an appeal under section 18 of the 1961 Act may not be taken into account in the assessment of compensation payable for a compulsory acquisition.

290 What should a certificate contain?

290.1 The local planning authority is required to respond to an application for a certificate of appropriate alternative development by:

- (a) issuing a certificate stating that a certain description of development (given in the application) is appropriate alternative development, or
- (b) issuing a certificate stating that a certain description of development less extensive than, but otherwise falling within, the description of development given in the application is appropriate alternative development, or
- (c) rejecting the application.

290.2 When deciding whether a certain description of development is “appropriate alternative development”, the exercise the local planning authority will undertake is whether, had a planning application for the development in the application been determined on the relevant planning date ([section 17\(1C\) of the 1961 Act](#)), the authority would have been more likely than not to grant it planning permission in the no-scheme world ([section 17\(1B\) of the 1961 Act](#)). For the purposes of determining an application under section 17 of the 1961 Act, the “relevant planning date” is:

- (a) the relevant valuation date (defined in [section 5A of the 1961 Act](#)), or
- (b) if earlier, the date on which the application is determined, for example, in the circumstances where ‘notice to treat’ is deemed to have been served (i.e. acquisitions by blight notice or purchase notice) and an application is submitted before the relevant valuation date has occurred.

290.3 [Section 17\(4\) of the 1961 Act](#) requires the local planning authority to issue a certificate, but not before the end of 22 days from the date that the applicant has, or has stated that the applicant will, serve a copy of their application on the other party directly concerned (unless otherwise agreed).

290.4 [Section 17\(5A\) of the 1961 Act](#) provides a local planning authority may issue a certificate of appropriate alternative development for either:

- (a) the description of development identified in the application for the certificate under section 17 of the 1961 Act, or
- (b) a description of development that is within the same description identified in the application for the certificate under section 17 of the 1961 Act but is less extensive, for example, a certificate issued for a four-storey residential block with 15 units instead of a five-storey residential block with 20 units (the description of development originally applied for).

When issuing a certificate to the applicant, the local planning authority must serve a copy of the certificate on the other party concerned with the compulsory acquisition ([section 17\(9\) of the 1961 Act](#)).

290.5 Local planning authorities should note that an application made under [section 17 of the 1961 Act](#) is not a planning application. The authority should seek to come to a view, based on its assessment of the information contained within the application and of the policy context applicable at the relevant valuation date or, if earlier, the date on which the application is determined, the character of the site and its surroundings, as to whether such a development would have been acceptable to the authority in the no-scheme world. As the description of development included in the certificate is not intended to be built, the local planning authority does not need to concern itself with whether or not the granting of a certificate would create any precedent for the determination of future planning applications.

290.6 When issuing a certificate under section 17 of the 1961 Act, the local planning authority must give a general indication of:

- (a) any conditions to which planning permission for the development described in the certificate would have been subject, and
- (b) any pre-conditions for the granting of the permission, for example, agreement to enter into an obligation with the authority, that would have to be met.

The exercise which the local planning authority will undertake when giving a general indication of conditions and pre-conditions is whether the authority would have been more likely than not to impose such conditions, or insist on a pre-conditions, in the no-scheme world ([section 17\(5C\) of the 1961 Act](#)). The general indication of conditions and pre-conditions should focus on those matters which affect the value of the land. Conditions and pre-conditions relating to detailed matters such approval of external materials or landscaping would not normally need to be indicated. However, clear indications should be given for matters which do affect the value of the land, wherever the authority is able to do so.

290.7 Such matters affecting the value of the land would include, for example, the proportion and type of affordable housing required within a development, limitations on height or density of development, requirements for the remediation of contamination or compensation for ecological impacts, and significant restrictions on use, as well as financial contributions and site-related works such as the construction of accesses and the provision of community facilities. The clearer the indication of such conditions and obligations can be, the more helpful the certificate will be in the valuation process.

291 Should a certificate be taken into account in assessing compensation?

291.1 A certificate once issued must be taken into account in assessing compensation for the compulsory acquisition of an interest in land, even though it may have been issued on the application of the owner of a different interest in the land. But it cannot be applied for by a person (other than the acquiring authority) who has no interest in the land.

291.2 When assessing any compensation payable to a person in respect of a compulsory acquisition, any expenses incurred by the person as a result of the preparing, submitting or issuing of a certificate under section 17 of the 1961 Act, or an appeal under section 18 of the 1961 Act, may not be reclaimed by that person ([section 17\(10\) of the 1961 Act](#)).

292 Should informal advice be given on open market value?

292.1 Applicants seeking a certificate of appropriate alternative development should seek their own planning advice if it is believed to be required in framing their application.

292.2 In order that the valuers acting on either side may be able to assess the open market value of the land to be acquired they will often need information from the local planning authority about such matters as existing permissions; the development plan and proposals to alter or review the plan. The provision of factual information when requested should present no problems to the authority or their officers. But sometimes officers will in addition be asked for informal opinions by one side or the other to the negotiations. It is for authorities to decide how far informal expressions of opinion should be permitted with a view to assisting the parties to an acquisition to reach agreement. Where they do give it, the authority should:

- a) give any such advice to both parties to the negotiation
- b) make clear that the advice is informal and does not commit them if a formal certificate or planning permission is sought

292.3 It is important that authorities do not do anything which prejudices their subsequent consideration of an application.

293 How are appeals against certificates made?

- 293.1 The right of appeal under [section 18 of the 1961 Act](#) against a certificate issued under section 17 of the 1961 Act, exercisable by both the acquiring authority and the person having an interest in the land, is to the Upper Tribunal (Lands Chamber). The Upper Tribunal (Lands Chamber) must consider the matter as if the application had been made to the Upper Tribunal (Lands Chamber) and as if the Upper Tribunal (Lands Chamber) were a reasonable planning authority when considering any appeal ([section 18\(2\)\(aa\) of the 1961 Act](#)). It may confirm, vary, or cancel the certificate and issue a different certificate in its place, as it considers appropriate. Where a local planning authority has rejected an application for a certificate under section 17 of the 1961 Act, the applicant may appeal to the Upper Tribunal (Lands Chamber) against the rejection ([section 18\(2A\) of the 1961 Act](#)). When considering an appeal made against a rejection of a certificate, the Upper Tribunal (Lands Chamber) will either:
- (a) confirm the rejection, or
 - (b) issue a certificate, as it considers appropriate.
- 293.2 [Rule 28\(7\) of the Tribunal Procedure \(Upper Tribunal\) Rules 2008](#) (as amended) requires that written notice of an appeal (in the form of a reference to the Upper Tribunal) must be given within one month of receipt of the certificate by the planning authority.
- 293.3 If the local planning authority fail to issue a certificate, notice of appeal must be given within one month of the date when the authority should have issued it (that date is either two months from receipt of the application by the planning authority, or two months from the expiry of any extended period agreed between the parties to the transaction and the authority) and the appeal proceeds on the assumption that the authority had rejected the certificate ([section 18\(3\) of the 1961 Act](#)).
- 293.4 The reference to the Tribunal must include (in particular):
- a copy of the application to the local planning authority,
 - a copy of the certificate issued (if any) by the authority or a copy of the authority's statement of reasons for rejecting the application, and
 - a summary of the applicant's reasons for seeking the determination of the Tribunal and whether the applicant wants the reference to be determined without a hearing.
- The Upper Tribunal does have the power to extend this period (under [Rule 5 of the Tribunal Procedure \(Upper Tribunal\) Rules 2008](#) (as amended)), even if it receives the request to do so after it expires. Appeals against the Upper Tribunal's decision on a point of law may be made to the Court of Appeal in the normal way.
- 293.5 More information on how to make an appeal, the appeal form you need and information on the fees payable can be found on [the Upper Tribunal's website](#). If you do not have access to the internet you can request a copy of the information leaflets and a form by writing to:
- Upper Tribunal (Administrative Appeals Chamber)
5th floor, 7 Rolls Buildings
Fetter Lane, London
EC4A 1NL

Section 24: Protected assets certificate

294 What are protected assets and protected assets certificates?

- 294.1 For the purposes of compulsory purchase protected assets are those set out below in [What information needs to be included in a positive statement?](#). Listing them in a certificate allows the confirming authority to know which assets will be affected by the scheme and will therefore inform the decision as to whether to confirm the compulsory purchase order.

295 What information do authorities need to ensure is included in or accompanies the order?

- 295.1 Confirming authorities need to ensure that the circumstances of any protection applying to buildings and certain other assets on order lands are included in its consideration of the order.
- 295.2 Every order submitted for confirmation (except orders made under [section 47 of the Planning \(Listed Buildings and Conservation Areas\) Act 1990](#)) should therefore be accompanied by a protected assets certificate.
- 295.3 A protected asset certificate should include, for each category of building or asset protected, either a [positive statement](#) with [specific additional information](#) or a nil return.

296 What information needs to be included in a positive statement?

a) listed buildings

The proposals in the order will involve the demolition/alteration/extension* of the following building(s) which has/have been* listed under [section 1 of the Planning \(Listed Buildings and Conservation Areas\) Act 1990](#)

b) buildings subject to building preservation notices

The proposals in the order will involve the demolition/alteration/extension* of the following building(s) which is/are* the subject(s)* of (a) building preservation notice(s) made by the..... *[insert name of authority]*
.....on.....*[insert date(s) of notice(s)]*

c) other buildings which may be of a quality to be listed

The proposals in the order will involve the demolition/alteration/extension* of the following building(s) which may qualify for inclusion in the statutory list under the criteria in [The Principles of Selection for Listing Buildings](#)

d) buildings within a conservation area

The proposals in the order will involve the demolition of the following building(s) which is/are* included in a conservation area designated under [section 69 of the Planning \(Listed Buildings and Conservation Areas\) Act 1990](#) (or, as the case may be, [section 70 of that Act](#)) and which require [planning permission for demolition](#)

e) scheduled monuments

The proposals in the order will involve the demolition/alteration/extension* of the following monument(s) which are scheduled under [section 1 of the Ancient Monuments and Archaeological Areas Act 1979](#). An application for scheduled monument consent has been/will be* submitted to Historic England

f) registered parks/gardens/historic battlefields

The proposal in the order will involve the demolition/alteration/extension* of the following park(s)/garden(s)/historic battlefield(s)* which is/are* registered under [section 8C of the Historic Buildings and Ancient Monuments Act 1953](#)

297 What additional information must accompany a positive statement?

297.1 The following additional information is required to accompany a positive statement:

- particulars of the asset or assets
- any action already taken, or action which the acquiring authority proposes to take, in connection with the category of protection, e.g. consent which has been, or will be, sought
- a copy of any consent or application for consent, or an undertaking to forward such a copy as soon as the consent or application is available

298 What happens if a submitted order entails demolition of a building which is subsequently included in conservation area?

298.1 Where a submitted order entails demolition of any building which is subsequently included in a conservation area the confirming authority should be notified as soon as possible.

Section 25: Objection to division of land (material detriment)

299 What happens where an owner objects to the division of land because it would cause material detriment to their retained land?

- 299.1 Where an acquiring authority proposes to acquire only part of a house (or park or garden belonging to a house), building or factory, the owner can serve a counter-notice on the acquiring authority requesting that it purchases the entire property.
- 299.2 On receipt of a counter-notice, the acquiring authority can either withdraw, decide to take all the land or refer the matter to the Upper Tribunal (Lands Chamber) for determination.
- 299.3 The Upper Tribunal will determine whether the severance of the land proposed to be acquired would in the case of a house, building or factory, cause material detriment to the house, building or factory (i.e. cause it to be less useful or less valuable to some significant degree), or in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

300 What is the procedure for serving a counter-notice?

- 300.1 In respect of a compulsory purchase order which is confirmed on or after 3 February 2017, the procedure for serving a counter-notice is set out in [Schedule 2A to the Compulsory Purchase Act 1965](#) ("the 1965 Act") (where the notice to treat process is followed) and [Schedule A1 to the Compulsory Purchase \(Vesting Declarations\) Act 1981](#) ("the CP(VD)A 1981") (where the general vesting declaration process is followed). The procedure is broadly the same in both cases.

301 What is the effect of a counter-notice on a notice of entry which has already been served on the owner?

- 301.1 Under [Part 1 of Schedule 2A to the 1965 Act](#), if the owner serves a counter-notice, any notice of entry under [section 11\(1\) of the 1965 Act](#) that has already been served on the owner in respect of the land proposed to be acquired ceases to have effect (see [paragraph 6 of Schedule 2A](#)). The acquiring authority may not serve a further notice of entry on the owner under [section 11\(1\)](#) in respect of that land unless they are permitted to do so by [paragraph 11 or 12 of Schedule 2A to the 1965 Act](#).

302 Under the general vesting declaration procedure, what is the effect of a counter-notice on the vesting date of the owner's land specified in the declaration?

- 302.1 If a counter-notice is served under [paragraph 2 of Schedule A1 to the CP\(VD\)A 1981](#) within the vesting period specified in the declaration in accordance with [section 4\(1\) of the CP\(VD\)A 1981](#), the 'vesting date' for the land proposed to be acquired from the owner (i.e. the land actually specified in the declaration) will be the day determined as the vesting date for that land in accordance with Schedule A1 (see [section 4\(3\)\(b\) of the CP\(VD\)A 1981](#)).

- 303 Can an acquiring authority enter the land it proposed to acquire from the owner where a counter-notice has been referred to the Upper Tribunal (Lands Chamber)?**
- 303.1 Under [Schedule 2A to the 1965 Act](#) and [Schedule A1 to the CP\(VD\)A 1981](#), an acquiring authority is permitted to enter the land it proposed to acquire from the owner (i.e. the land included in its notice to treat / general vesting declaration) where a counter-notice has been referred to the Upper Tribunal.
- 303.2 [Paragraph 12 of Schedule 2A to the 1965 Act](#) provides that, where a counter-notice has been referred to the Upper Tribunal, an acquiring authority may serve a notice of entry on the owner in respect of the land proposed to be acquired. If the authority had already served a notice of entry in respect of the land (i.e. a notice which ceased to have effect under [paragraph 6\(a\) of Schedule 2A](#)), the normal minimum three month notice period will not apply to the new notice in respect of that land (see [section 11\(1B\) of the 1965 Act](#)). The period specified in any new notice must be a period that ends no earlier than the end of the period in the last notice of entry (see [paragraph 13 of Schedule 2A](#)).
- 303.3 Similarly, under the general vesting declaration procedure, if an acquiring authority refers a counter-notice (served before the original vesting date) to the Upper Tribunal, the authority may serve a notice on the owner specifying a new vesting date for the land proposed to be acquired (see [paragraph 12 of Schedule A1 to the CP\(VD\)A 1981](#)). This is intended to allow for the vesting of this land before the Upper Tribunal has determined the material detriment dispute.
- 303.4 However, if an acquiring authority enters, or vests in itself, the land it proposed to acquire **in advance** of the Upper Tribunal's determination and the Tribunal subsequently finds in favour of the owner (i.e. the Tribunal requires the authority to take additional land from the owner):
- a) the authority will **not** have the option of withdrawing its notice to treat under [paragraph 29 of Schedule 2A to the 1965 Act](#) or [paragraph 17 of Schedule A1 to the CP\(VD\)A 1981](#), and so will be compelled to take the additional land
 - b) the Tribunal will be able to award the owner compensation for any losses caused by the temporary severance of the land proposed to be acquired from the additional land which is required to be taken (see [paragraph 28\(5\) of Schedule 2A to the 1965 Act](#) and [paragraph 16\(4\) of Schedule A1 to the CP\(VD\)A 1981](#))
- 304 Do the material detriment provisions in Schedule 2A to the Compulsory Purchase Act 1965 and Schedule A1 to the Compulsory Purchase (Vesting Declarations) Act 1981 apply in all cases?**
- 304.1 An acquiring authority may, in a compulsory purchase order, disapply the material detriment provisions for specified land which is nine metres or more below the surface (see [section 2A of the Acquisition of Land Act 1981](#)). This is intended to prevent spurious claims for material detriment from owners of land above tunnels where the works will have no discernible effect on their land.

305 Are the material detriment provisions the same where a blight notice is served?

305.1 The material detriment provisions in relation to blight notices are set out in [the Town and Country Planning Act 1990](#) (see, in particular, [sections 151\(4\)\(c\), 153\(4A\) to \(7\)](#) and [154\(4\) to \(6\)](#)).

Section 26: Overriding easements and other rights

306 Do acquiring authorities have power to override easements and other rights affecting the acquired land?

306.1 Prior to July 2016, only some acquiring authorities had the power to override easements and other rights on land they had acquired. However, provisions in [section 203 of the Housing and Planning Act 2016](#) extended this power to all bodies with compulsory purchase powers and in [section 37 of the Neighbourhood Planning Act 2017](#) to a company or body through which the Greater London Authority exercises functions in relation to housing or regeneration or to a company or body through which Transport for London exercises any of its functions.

307 Are there any restrictions on the use of the power to override easements and other rights?

307.1 There are several conditions/limitations on the use of the power to override easements and other rights. These are that:

- there must be planning consent for the building or maintenance work/use of the land
- the acquiring authority must have the necessary enabling powers in legislation to acquire the land compulsorily for the purpose of the building or maintenance work / the purpose of erecting or constructing any building, or carrying out any works, for the use
- the development must be related to the purposes for which the land was acquired or appropriated
- the land must have become vested in or acquired by an acquiring authority or been appropriated for planning purposes by a local authority on or after 13 July 2016 or be 'other qualifying land' (as defined in [section 205\(1\)](#))
- the power is not available in respect of a 'protected right' (as defined in [section 205\(1\)](#))
- the National Trust is subject to the protections in [section 203\(10\)](#)

308 Are owners of overridden easements and other rights entitled to compensation?

308.1 Under [section 204 of the Housing and Planning Act 2016](#), owners of easements or other rights which are overridden are entitled to compensation calculated on the same basis as for injurious affection under [sections 7 and 10](#) of the [Compulsory Purchase Act 1965](#). Any dispute about compensation may be referred to the Upper Tribunal (Lands Chamber) for determination.

Section 27: Compulsory purchase orders which include directions to remove the prospects of planning permission from the assessment of compensation

309 What is the effect of the confirmation of a compulsory purchase order with a direction applying section 14A of the Land Compensation Act 1961 included?

309.1 Where a compulsory purchase order is confirmed with a section 14A direction included ('a section 14A direction compulsory purchase order'), the effect is that section 14 of the Land Compensation Act 1961 (as amended by [section 189 of the Levelling-up and Regeneration Act 2023](#)) will not apply when compensation is assessed for the value of interests in land taken (in accordance with rule (2) in section 5 of the Land Compensation Act 1961). In assessing the value of the land interest, it will be assumed that no planning permission would be granted for development on the relevant land (whether alone or together with other land). This means the assessment of compensation for a land interest will not include value attributed to:

- appropriate alternative development for which the grant of planning permission may be assumed (ignoring the scheme underlying the compulsory purchase order)
- the prospect of a planning permission being granted on the land (ignoring the scheme underlying the compulsory purchase order) for a use which has a greater value than the existing use of the land

309.2 The assessment of the value of the land interest may take account of:

- any existing planning permission which has already been granted on the land
- the prospect of planning permission being granted on or after the relevant valuation date for the conversion of a single dwelling into a two or more separate dwellings

309.3 The confirmation of a section 14A direction compulsory purchase order may provide the acquiring authority with upfront certainty as to how compensation for land taken will be assessed. It is also likely to assist the scheme deliver the public benefits and improve the acquiring authority's confidence in its property cost estimates.

310 When may an acquiring authority seek to include direction in a compulsory purchase order for compensation to be assessed in accordance with section 14A of the Land Compensation Act 1961?

310.1 Acquiring authorities may, in certain circumstances, include within a compulsory purchase order a direction that requires compensation to be assessed in accordance with section 14A of the Land Compensation Act 1961 ('a section 14A direction').

Where a section 14A direction compulsory purchase order is confirmed section 14 of the Land Compensation Act 1961 (as amended by section 189 of the Levelling-up and Regeneration Act 2023) (which requires the valuation assessment to take into account the prospects of planning permission being granted on the land i.e. 'hope value') does not apply when compensation is assessed for the value of interests in land taken (in accordance with rule (2) in section 5 of the Land Compensation Act 1961).

310.2 An acquiring authority may only include a section 14A direction in a compulsory purchase order if they are acquiring land under the following compulsory purchase enabling powers (which are listed in Schedule 2A to the Acquisition of Land Act 1981):

(a) *compulsory purchase powers authorising acquisitions for broad development schemes involving improvement, redevelopment, and regeneration purposes:*

- section 21A(1)(c) and (2)(c) of the Welsh Development Agency Act 1975 (acquisition by the Welsh Ministers of land in England for Welsh development purposes)
- section 10 of the New Towns Act 1981 (acquisition by new town development corporations)
- section 142 of the Local Government, Planning and Land Act 1980 (acquisitions by urban development corporations)
- section 17 of the Housing Act 1985 (acquisitions by local housing authorities)
- section 226 of the Town and Country Planning Act 1990 (acquisitions by local authorities for development or planning purposes)
- section 333ZA of the Greater London Authority Act 1999 (acquisitions by Greater London Authority for housing or regeneration purposes)
- section 9 of the Housing and Regeneration Act 2008 (acquisition of land by Homes England to achieve its statutory objects (purposes))
- section 207 of the Localism Act 2011 (acquisitions by mayoral development corporations)

(b) *compulsory purchase powers authorising acquisitions for purposes of the NHS*

- paragraph 46 of Schedule 4 to the Health and Social Care (Community Health and Standards) Act 2003 (acquisitions by NHS foundation trusts)

- paragraph 27 of Schedule 4 to the National Health Service Act 2006 (acquisitions by NHS trusts)
- local health boards and NHS trusts (in Wales) – paragraph 20 of Schedule 2 and paragraph 27 of Schedule 3 to the National Health Service (Wales) Act 2006

(c) *compulsory purchase powers authorising acquisitions for education purposes*

- section 530 of the Education Act 1996 (acquisitions by local authorities for purposes of educational institution or function)

310.3 Where the acquiring authority is relying on the compulsory purchase enabling powers listed under category (a) above, the acquiring authority must, as part of the scheme underlying the compulsory purchase order, intend to include some provision of affordable housing on the land included in the order. The number of affordable housing units intended to be provided by the scheme must be identified in a ‘Statement of Commitments’ (see [What is a ‘Statement of Commitments’?](#)). The affordable housing must be social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008. If the scheme underlying the compulsory purchase order does not include the provision of specified numbers of units of affordable housing, a section 14A direction cannot be included in the compulsory purchase order.

311 What regard should acquiring authorities have to the Subsidy Control Act 2022 when considering whether to make a compulsory purchase order with a direction included applying section 14A of the Land Compensation Act 1961?

311.1 The [Subsidy Control Act 2022](#) (“the 2022 Act”) provides the framework for the subsidy control regime in the UK (replacing the previous European Union state aid rules regime). The statutory guidance on the UK subsidy control regime can found on the following [website: https://www.gov.uk/government/publications/uk-subsidy-control-statutory-guidance](https://www.gov.uk/government/publications/uk-subsidy-control-statutory-guidance).

311.2 Before deciding whether to make a section 14A direction compulsory purchase order, acquiring authorities should consider on a case-by-case basis the need to undertake an assessment of whether the subsidy control regime is engaged.

311.3 A confirmed section 14A direction compulsory purchase order will enable an acquiring authority to acquire land without paying compensation associated with either:

- the prospect of appropriate alternative development being established on the land
- the prospect of planning permission being granted for other development on or after the relevant valuation date on the land

311.4 The payment of reduced compensation may engage the subsidy control regime as a 'subsidy' for the purposes of section 2(1) of the 2022 Act if it provides financial assistance that:

- (a) is given, directly or indirectly, from public resources by a public authority
- (b) confers an economic advantage on one or more enterprises
- (c) is specific i.e. it benefits one or more enterprises over one or more other enterprises with respect to the production of goods or the provision of services
- (d) has, or is capable of having, an effect on—
 - (i) competition or investment within the United Kingdom
 - (ii) trade between the United Kingdom and a country or territory outside the United Kingdom
 - (iii) investment as between the United Kingdom and a country or territory outside the United Kingdom

311.5 However, each set of circumstances should be considered on a case-by-case basis to determine whether the particular section 14A direction is a 'subsidy' in those circumstances.

312 How can an acquiring authority include a direction in a compulsory purchase order which applies section 14A of the Land Compensation Act 1961?

312.1 Acquiring authorities using the powers listed in Schedule 2A to the Acquisition of Land Act 1981 may include a section 14A direction within a compulsory purchase order which is submitted for confirmation.

312.2 The relevant wording for including a section 14A direction in a compulsory purchase order is set out in the relevant optional paragraphs in [Forms 1 - 3 in the Schedule to the Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) Regulations 2004 \(as amended\)](#)²⁹.

312.3 New town development corporations should follow this link for advice on [how to include a section 14A direction within a new town compulsory purchase order](#).

²⁹ The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by The [Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) \(Amendment\) Regulations 2024](#)

313 How will landowners be notified of a compulsory purchase order which has been made with a direction applying section 14A of the Land Compensation Act 1961 included?

313.1 When serving notice under section 12(1) of the Acquisition of Land Act 1981 on qualifying persons of a section 14A direction compulsory purchase order, the notice must, in addition to the other requirements under section 12:

- include a statement of the effect of a direction applying section 14A of the Land Compensation Act 1961 (see [additional paragraph 7 in Form 8 in the Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) Regulations 2004](#) (as amended)³⁰)
- name a place within the locality where a copy of the acquiring authority's Statement of Commitments may be inspected
- specify the website on which a copy of the Statement of Commitments may be viewed

314 What is a 'Statement of Commitments'?

314.1 When submitting a section 14A direction compulsory purchase order for confirmation, acquiring authorities must also submit a Statement of Commitments. A 'Statement of Commitments' is a statement of the acquiring authority's intentions as to what it will do with the land included in the section 14A direction compulsory purchase order should the acquisition proceed and the authority relies on those intentions in demonstrating that the section 14A direction is justified in the public interest.

314.2 To ensure accessibility and transparency for objectors and other parties, it is recommended the Statement of Commitments is a standalone document from the statement of reasons submitted in support of the compulsory purchase order.

³⁰ The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by The [Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) \(Amendment\) Regulations 2024](#)

- 315 What happens if an acquiring authority wishes to amend its Statement of Commitments after a compulsory purchase order which includes a direction applying section 14A of the Land Compensation Act 1961 has been submitted for confirmation?**
- 315.1 The confirming authority may allow an acquiring authority to amend its Statement of Commitments before the section 14A direction compulsory purchase order is confirmed only if:
- the amendment would not be unfair to any person who made or could have made a relevant objection for the purposes of [section 13 of the Acquisition of Land Act 1981](#)
 - if the compulsory purchase power under which the compulsory purchase order is made is for a purpose including housing (listed under [paragraphs 1 -7 in Schedule 2A to the Acquisition of Land Act 1981](#)), only if the authority's intentions still include the provision of units of affordable housing
- 315.2 A request to amend a Statement of Commitment by an acquiring authority should be made to the confirming authority.
- 316 Where the acquiring authority wishes to amend its Statement of Commitments, how can it ensure the amendment would not be unfair to any person who made or could have made a relevant objection for the purposes of section 13 of the Acquisition of Land Act 1981?**
- 316.1 As noted above, the confirming authority may only permit the acquiring authority to amend the statement of commitments where it is satisfied the amendment would not be unfair to a person who made or could have made a relevant objection for the purposes of [section 13 of the Acquisition of Land Act 1981](#).
The purpose of this requirement is to ensure that any person who made, or could have made, a relevant objection to a compulsory purchase order is not unfairly deprived of an opportunity to express views on the proposed changes. The "unfairness" the provision is intended to avoid is therefore procedural rather than substantive in nature.
- 316.2 Potential unfairness of this nature could be remedied by allowing representations to be made on the proposed changes in a manner proportionate to the nature of the change. This could include for instance, where necessary, reopening an inquiry or allowing a further exchange of written representations.

- 317 What happens if the confirming authority decides a proposed amendment to a Statement of Commitments is unfair to any person who made or could have made a relevant objection for the purposes of section 13 of the Acquisition of Land Act 1981?**
- 317.1 If an acquiring authority is not permitted to amend its Statement of Commitments, it should consider remedying any potential unfairness as suggested in the paragraph above.
- 317.2 If the acquiring authority is not willing to do so, then the acquiring authority will have to rely on the version of its Statement of Commitments that it submitted with the section 14A direction compulsory purchase order if it wishes to proceed with that order.
- 318 Can an acquiring authority confirm its own compulsory purchase order if it includes a direction applying section 14A of the Land Compensation Act 1961?**
- 318.1 The power under [section 14A of the Acquisition of Land Act 1981](#) for the confirming authority to remit a compulsory purchase order back to the acquiring authority for confirmation does not apply to a section 14A direction compulsory purchase order regardless of whether no objections have been made to the order.
- 319 How will the confirming authority consider a compulsory purchase order which is made with a direction applying section 14A of the Land Compensation Act 1961 included?**
- 319.1 Where an acquiring authority makes a section 14A direction compulsory purchase order, as well as demonstrating there is a compelling case in the public interest for the making of the compulsory purchase order, the acquiring authority will have to demonstrate the inclusion of the section 14A direction in the order is justified in the public interest.
- 319.2 The confirming authority will only confirm a compulsory purchase order with a section 14A direction included if they are satisfied the direction is justified in the public interest.
- 319.3 If the confirming authority is not satisfied a section 14A direction is justified in the public interest, the confirming authority can exercise the power under [section 15A\(9\) of the Acquisition of Land Act 1981](#) to modify the compulsory purchase order so to remove the direction. They must still decide whether there is a compelling case in the public interest for the making of the compulsory purchase order.

320 How will an acquiring authority demonstrate the inclusion of a direction applying section 14A of the Land Compensation Act 1961 in a compulsory purchase order is justified in the public interest?

- 320.1 It is for acquiring authorities to decide how to justify including a section 14A direction in a compulsory purchase order. Acquiring authorities will need to defend including a section 14A direction in a compulsory purchase order and defend the potential to acquire the land at a value which assumes no planning permission would be granted for development on the relevant land (whether alone or together with other land), at a public inquiry or through written representations and, if necessary, in the courts.
- 320.2 As with the justification for demonstrating the compelling case for the use of compulsory purchase powers, the more comprehensive the justification for the inclusion of a section 14A direction is, the stronger the acquiring authority's case is likely to be. Acquiring authorities should consider submitting a cost/benefit study to demonstrate how the public benefits to be delivered through the confirmation of a section 14A direction compulsory purchase order outweigh the interference with the rights of an affected party including those in Article 1 of the First Protocol to the [European Convention on Human Rights](#) and, in the case of a dwelling, Article 8 of the Convention.
- 320.3 Where the public benefits to be facilitated by the confirmation of a section 14A direction compulsory purchase order will be limited, the justification for the section 14A direction in the public interest may be more difficult to show.
- 320.4 The confirming authority will consider each section 14A direction compulsory purchase order on its own merits. It is anticipated the confirming authority will first consider whether there is a compelling case in the public interest for the making of the compulsory purchase order (see [When should compulsory purchase powers be used?](#), [How does an acquiring authority justify a compulsory purchase order?](#) and [How will the confirming authority consider the acquiring authority's justification for a compulsory purchase order?](#)) before turning to whether including a section 14A direction in the order is justified in the public interest. This guidance is not intended to suggest the confirming authority will require any particular degree of justification for any specific section 14A direction compulsory purchase order. The confirming authority will need to be satisfied, and the acquiring authority must be able to demonstrate, that there are sufficiently convincing reasons why including the section 14A direction in the compulsory purchase order is justified in the public interest.

- 320.5 Acquiring authorities are advised to ensure the public benefits to be delivered through the assessment of compensation for land value in accordance with section 14A of the Land Compensation Act 1961 are appropriately and clearly described in a Statement of Commitments which must be submitted alongside a section 14A direction in the compulsory purchase order. This will ensure affected parties, the inspector and the confirming authority are in no doubt as to the public benefits which are to be delivered by the scheme in question. See [What is a 'Statement of Commitments'?](#) for guidance on what is a 'Statement of Commitments'. To demonstrate including a section 14A direction in the compulsory purchase order is justified in the public interest, acquiring authorities should, when submitting the order and Statement of Commitments for confirmation, provide the following information:
- (a) consideration of the effects on affected land interest holders, including consideration of rights under Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention
 - (b) justification as to why the assessment of compensation for land value in accordance with section 14A of the Land Compensation Act 1961 in the specific circumstances of the scheme is proportionate to the effects on those with an interest in the land
 - (c) evidence of how the assessment of compensation for land value in accordance with section 14A of the Land Compensation Act 1961 will assist the delivery of a scheme's public benefits which would not otherwise come forward if the compulsory purchase order was confirmed without a section 14A direction included. This may require the acquiring authority to consider presenting a comparison of the scheme with and without a section 14A direction. This evidence should provide an objective, realistic overview of the costs of the scheme to be facilitated by a section 14A direction and be undertaken in accordance with published professional guidance. It should be prepared on the basis it will be made publicly available and any commercially sensitive information should be aggregated and executive summaries provided
- 320.6 Acquiring authorities should recognise that the inspector and the confirming authority will rely on the information outlined above as part of the consideration of whether the inclusion of a section 14A direction in a compulsory purchase order is justified in the public interest. As such, it should be presented clearly so as to aid clear interpretation and interrogation.
- 320.7 The justification for the inclusion of a section 14A direction in a compulsory purchase order will vary from order to order. For some schemes the public benefits to be delivered through including a section 14A direction may be limited and experienced only by the community in the immediate vicinity of the land.

For example, an infill site delivering residential units which will regenerate a derelict, vacant area.

- 320.8 On the other hand, other types of schemes may deliver wider public benefits which would extend beyond the local area, for example, across a region. For example, a brownfield city centre mixed-use scheme or a university teaching hospital.
- 320.9 Where it is decided that a public inquiry will be held to consider objections to a section 14A direction compulsory purchase order, it is anticipated a matter on which the confirming authority may wish to appoint an assessor under the Compulsory Purchase (Inquiries Procedure) Rules 2007 to sit with and advise an inspector on is the evaluation of the acquiring authority's evidence of how the assessment of compensation for land value in accordance with section 14A of the Land Compensation Act 1961 will support the delivery of a scheme's public benefits
- 321 Can the power to include a direction applying section 14A of the Land Compensation Act 1961 in a compulsory purchase order be used if the purpose or activity specified in the order is being taken forward by a body other than the authority which made the order?**
- 321.1 Where a section 14A direction compulsory purchase order is made which facilitates the provision of affordable housing, the acquiring authority itself does not need to be undertaking the scheme.
- 321.2 Where a body from the private sector has agreed to make financial contributions to, or to completely underwrite, the delivery of the scheme underlying the section 14A direction compulsory purchase order, the benefits to be secured through acquiring the land at a value which assumes no planning permission would be granted for development on the relevant land (whether alone or together with other land) are less likely to accrue to the public and more likely to accrue to the private sector partner. In these circumstances, it is considered less likely including a section 14A direction in a compulsory purchase order would be justified in the public interest. For the purposes of this paragraph, "a body from the private sector" is not meant to include a registered provider of affordable housing (including social housing) or a body such as a Community Land Trust.
- 322 How will landowners be notified of a compulsory purchase order which has been confirmed with a direction applying section 14A of the Land Compensation Act 1961 included?**
- 322.1 Where a section 14A direction compulsory purchase order is confirmed, the following information must be included in the confirmation notice required by section 12(1)(a) of the Acquisition of Land Act 1981:
- a statement of the effect of the section 14A direction
 - an explanation of how the Statement of Commitments may be viewed

- an explanation that additional compensation may become payable if the Statement of Commitments is not fulfilled

322.2 When drafting a confirmation notice associated with a section 14A direction compulsory purchase order using [Form 10 in the Schedule to the Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) Regulations 2004 \(as amended\)](#)³¹, [additional paragraphs 8 – 10 in Form 10](#) must be included in the notice.

323 Where a compulsory purchase order is confirmed with a direction applying section 14A of the Land Compensation Act 1961 included, will the direction apply to all of the land included in the order regardless of the use of that land?

323.1 Where a section 14A direction compulsory purchase order is confirmed, the terms of the direction will apply in respect of the assessment of compensation for the acquisition of all the interests in land included in the order regardless of the lands intended use.

324 What is the effect of the confirmation of a compulsory purchase order with a direction applying section 14A of the Land Compensation Act 1961 included in respect of land acquired in pursuance of a blight notice?

324.1 Where an interest in land is acquired in pursuance of a blight notice under Chapter II of Part VI of the Town and Country Planning Act 1990, and the interest is one in respect of which a section 14A direction compulsory purchase order is in force, the compensation payable for the acquisition of that interest is to be assessed:

- (a) in accordance with the terms of the section 14A direction
- (b) as if the notice to treat deemed to have been served in respect of the interest under section 154 of the Town and Country Planning Act 1990 had been served in pursuance of the section 14A direction compulsory purchase order

325 Will a direction applying section 14A of the Land Compensation Act 1961 be taken into account in the assessment of value of severed land or injurious affection under sections 7 or 10 of the Compulsory Purchase Act 1965?

325.1 Compensation for diminution in the value of a person's retained land as a consequence of it being severed from, and not being held with, land acquired by an acquiring authority is payable under section 7 of the Compulsory Purchase Act 1965. Compensation for damage caused to the retained land by injurious affection is payable under section 10 of that Act. As compensation in each case is not related to the assessment of the value of land under the Land Compensation Act 1961, a section 14A direction will have no effect.

³¹ The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 were amended by [The Compulsory Purchase of Land \(Prescribed Forms\) \(Ministers\) \(Amendment\) Regulations 2024](#)

325.2 The amount of compensation claimed for value of land acquired subject to a section 14A direction compulsory purchase order and compensation claimed for severance or injurious affection in respect of retained land should be set out and assessed separately on claim forms.

326 What effect will the confirmation of a compulsory purchase order with a direction applying section 14A of the Land Compensation Act 1961 included have on the assessment of value of land acquired pursuant to the acceptance of a counter-notice under Parts 1 or 2 of Schedule 2A to the Compulsory Purchase Act 1965?

326.1 Where an acquiring authority proposes to acquire part of a property, the owner may serve a counter-notice under Parts 1 or 2 of Schedule 2A to the Compulsory Purchase Act 1965 requiring the acquiring authority to purchase their interest in the whole of the land. If the acquiring authority accepts the counter-notice, or the Upper Tribunal determines the acquiring authority ought to be required to acquire the whole or part of the additional land, the compulsory purchase order and the notice to treat have effect as if they included both the person's interest in the land proposed to be acquired and the person's additional land (as defined in Parts 1 and 2 of Schedule 2A to the Compulsory Purchase Act 1965). As such, if the compulsory purchase order includes a section 14A direction, that direction will also apply to the assessment of compensation for the value of interests in the additional land which is to be acquired.

327 What effect will the confirmation of a compulsory purchase order with a direction applying section 14A of the Land Compensation Act 1961 included have on the determination of loss payments under the Land Compensation Act 1973?

327.1 Where the amount of a home loss payment (including an advance payment) or discretionary home loss payment is to be determined in accordance with section 30(1) of the Land Compensation Act 1973 ("the 1973 Act"), the market value (as defined) of the interest to be acquired will be used as the basis for assessing the relevant loss payment amount. Where land is being compulsorily acquired, the market value of the interest is defined as 'the amount assessed for the purposes of the acquisition'. The amount assessed for the purposes of the acquisition is also the value be used to determine loss payments under sections 33A, 33B and 33C of the 1973 Act. Where a section 14A direction compulsory purchase order is confirmed, claims for loss payments compensation (which will involve the assessment of market value under sections 30(1), 32(2B), 33A(6), 33B(5) and 33C(5) of the 1973 Act) will be assessed by reference to the compensation payable for that interest in accordance with the terms of the section 14A direction.

328 What happens if an acquiring authority fails to deliver its scheme as intended when the compulsory purchase order which included the direction applying section 14A of the Land Compensation Act 1961 was confirmed?

328.1 The confirming authority must, on an application by an 'eligible person' (see [Who is eligible to make an application for a direction for additional compensation?](#) under [paragraph 1\(2\) of Schedule 2A to the Land Compensation Act 1961](#), make a direction for additional compensation if it appears to the confirming authority that the following conditions have been met:

- the acquiring authority's Statement of Commitments has not been fulfilled i.e. the acquiring authority's use of the acquired land is not materially in accordance with its stated intentions set out in the version of its Statement of Commitments as at the date the section 14A direction compulsory purchase order was confirmed
- either: (a) the period of 10 years beginning with the date on which the compulsory purchase order became operative has expired, or (b) there is no longer any realistic prospect of the acquiring authority's Statement of Commitments being fulfilled within that period
- the section 14A direction compulsory purchase order would not have been confirmed on the basis of a Statement of Commitments reflecting what the acquiring authority has done with the land included in the compulsory purchase order since its acquisition.

329 When would an acquiring authority's Statement of Commitments be fulfilled?

329.1 An acquiring authority's Statement of Commitments will be 'fulfilled' for the purposes of [paragraph 1\(3\) of Schedule 2A to the Land Compensation Act 1961](#) where what is done with the land after its compulsory purchase is materially in accordance with the version of its Statement of Commitments as at the date the section 14A direction compulsory purchase order was confirmed.

330 Who is eligible to make an application for a direction for additional compensation?

330.1 A person is eligible to make an application for a direction for additional compensation if the person was entitled to compensation in respect of the original acquisition ("eligible person") i.e. they had their land or an interest in land acquired via a section 14A direction compulsory purchase order.

330.2 Mortgage lenders may be classed as eligible persons where they were entitled to compensation in respect of the original acquisition (see [Where additional compensation is payable, what happens if an interest in land which was acquired via a section 14A direction compulsory purchase order was subject to a mortgage?](#)).

330.3 Where the right to compensation to which an eligible person was entitled in respect of the original acquisition would (if the compensation has not been paid) has vested in another person, such a successor-in-title may, whether the eligible person is alive or not, make an application for a direction for additional compensation under [paragraph 1\(2\) of Schedule 2A to the Land Compensation Act 1961](#). Successors-in-title may also make claims for additional compensation, where applicable.

331 How does an eligible person make an application for a direction for additional compensation?

331.1 Where an eligible person believes the conditions for the making of an application for additional compensation under [paragraph 1\(3\) in Schedule 2A to the Land Compensation Act 1961](#) have been met (see [What happens if an acquiring authority fails to deliver its scheme as intended when the compulsory purchase order which included the direction applying section 14A of the Land Compensation Act 1961 was confirmed?](#)), they may apply to the confirming authority seeking a direction for additional compensation.

331.2 The confirming authority may appoint a planning inspector to advise on matters such as:

- considering the representations submitted on the valid application for a direction for additional compensation
- undertaking a site inspection, if appropriate
- making a report in writing to the confirming authority with their findings of fact and a recommendation to enable the confirming authority to make a decision on the application.

331.3 The procedure for submitting an application for a direction for additional compensation is set out in the [Land Compensation \(Additional Compensation\) \(England\) Regulations 2024](#). Under the procedure, the local planning authority for the land the subject of the application will be notified of the application and asked to make representations on whether the acquiring authority's Statement of Commitments has been fulfilled i.e. whether what has been done with the land after its compulsory purchase is materially in accordance with the version of the Statement of Commitments as at the date the section 14A direction compulsory purchase order was confirmed. This should involve an appraisal being undertaken by the local planning authority of the current use and planning status of the land at the time it received notification of the application. For example, whether the planning permission underpinning the section 14A direction compulsory purchase order scheme has commenced and the development is being built out; it remains uncommenced but extant; it has expired; the scheme underlying the section 14A direction compulsory purchase order has been build out and complete; or a different development scheme has been granted planning permission on the land and/or has been build out (or in the process of being built out).

331.4 Failure to comply with the procedure for submitting an application for a direction for additional compensation may result in an application being invalid and not being accepted by the confirming authority. Where an application is rejected, and an applicant resubmits the application, the resubmitted application will be treated as a new application for the purposes of the regulations.

331.5 A model application form for a direction for additional compensation is set out in the Schedule to the [Land Compensation \(Additional Compensation\) \(England\) Regulations 2024](#).

332 Where should an application for a direction for additional compensation be submitted?

332.1 An application for a direction for additional compensation should be submitted to the Secretary of State who has responsibility for housing and planning matters in their role as confirming authority at the address provided in [Section 18 of this guidance](#).

333 Is there a deadline for when an application for a direction for additional compensation may be made?

333.1 An application for a direction for additional compensation may not be made after the expiry of the period of 13 years beginning with the date on which the section 14A direction compulsory purchase order became operative.

334 How will the applicant and acquiring authority be notified of the confirming authority's decision on an application for a direction for additional compensation?

334.1 The confirming authority, when determining an application for a direction for additional compensation, will give notice of their decision in writing to:

- the applicant
- acquiring authority
- any other person who was sent notification of the valid application.

334.2 The notice of decision will state:

- (i) the date of the decision
- (ii) the confirming authority's written reasons for making a direction for additional compensation or the refusal of an application
- (iii) where a direction for additional compensation has been made:
 - (a) that a claim for additional compensation may be made to the relevant acquiring authority in accordance with the [Land Compensation \(Additional Compensation\) \(England\) Regulations 2024](#)

- (b) in the notice sent to the applicant, confirmation of the contact details for that acquiring authority

335 What is the effect of a direction for additional compensation?

- 335.1 Where the confirming authority makes a direction for additional compensation, any person who was entitled to compensation in respect of the acquisition may make a claim to the acquiring authority for additional compensation in respect of the compulsory purchase of their interest in land which was subject to the section 14A direction.

336 How will persons eligible to make a claim for additional compensation be notified of a decision by the confirming authority to make a direction for additional compensation?

- 336.1 Within 6 weeks of receiving notification of the confirming authority's decision to make a direction for additional compensation, the acquiring authority must publicise notice of the decision by following the procedure set out in the [Land Compensation \(Additional Compensation\) \(England\) Regulations 2024](#).

- 336.2 The locations where notice of the confirming authority's decision must be publicised by the acquiring authorities are:

- on a website maintained by the acquiring authority (the notice must remain on the website for a period of not less than one year)
- affixed on or near the land comprised in the original section 14A direction compulsory purchase order and in the locality in which the land is situated where public notices are usually posted (the notice should be maintained in place and in good condition for at least one month)
- in each of the London Gazette, the Estates Gazette and a local newspaper that circulates in the locality in which the original section 14A direction compulsory purchase order land is situated (the notice must be published for two successive weeks)
- where the original section 14A direction compulsory purchase order land included land that was agricultural land immediately before it was acquired by the acquiring authority, in Farmers Weekly (the notice must be published for two successive weeks)

337 What are the circumstances where additional compensation will be payable?

337.1 Additional compensation will be payable if:

- (a) the amount of compensation that would have been assessed in respect of the acquisition (i.e. the value of the interest in the land) as due had compensation been assessed in accordance with section 14 of the Land Compensation Act 1961 (as amended by [section 189 of the Levelling-up and Regeneration Act 2023](#)) (“the alternative amount”), is greater than
- (b) the amount of compensation awarded or agreed to be paid to the eligible person in respect of the compulsory purchase of their interest in the land which was subject to the original section 14A direction (“original amount”)

337.2 The amount payable will be the difference between the alternative and original amounts (where the alternative amount is greater than the original amount), together with any interest accrued and an amount for qualifying losses where applicable.

338 How will the amount of additional compensation be assessed?

338.1 Where the confirming authority makes a direction for additional compensation under [paragraph 1\(2\) of Schedule 2A to the Land Compensation Act 1961](#), the effect is that [section 14 of the Land Compensation Act 1961](#) (as amended by [section 189 of the Levelling-up and Regeneration Act 2023](#)) will be applied retrospectively to the assessment of compensation in respect of the value of the interest in land acquired under the original compulsory purchase order.

338.2 For the purposes of calculating the original and alternative amounts (i.e. assessing the amount of additional compensation), no account may be taken of compensation that is or would be attributable to disturbance, severance or injurious affection. Where a direction for additional compensation is made, the alternative amount may be calculated by taking account of the value associated at the relevant original valuation date with:

- the planning certainty of appropriate alternative development established on the land
- the prospect of planning permission being granted for other development on the land on or after the relevant valuation date

338.3 A Certificate of Appropriate Alternative Development (CAAD) may not be applied for to inform the assessment of the alternative amount if a reference has been made to the Upper Tribunal (Lands Chamber) to determine the amount of additional compensation except with the consent in writing of the other party directly concerned or the permission of the Upper Tribunal (Lands Chamber).

338.4 Where a CAAD is applied for to inform the assessment of the alternative amount and a decision is issued by the relevant local planning authority, an appeal may be

made to the Upper Tribunal (Lands Chamber) against that decision in the usual way under [section 18 of the Land Compensation Act 1961](#).

- 338.5 The assessment of additional compensation cannot consider any part of value which is attributable to any change in the use of the land made after the relevant valuation date used to determine the original amount of compensation ('the original relevant valuation date') which includes any building, or improvement or extension of a building, on the land after the original relevant valuation date. This also includes any planning permission subsequently granted after the original relevant valuation date on the land or buildings on the land.

339 What happens if a referral has been made to the Upper Tribunal (Land Chamber) to determine the original amount of compensation but it remains undetermined when a direction for additional compensation is made?

- 339.1 Where this is the case, claimants will still be able to make a claim for additional compensation, if appropriate, and should set out in the claim the amount, if any, that has been agreed or awarded. The claimant may also provide further information as part of their claim to explain any reasons why the original compensation has not been agreed or awarded. The acquiring authority may also request this information where appropriate.

340 Where additional compensation is payable, is interest to be applied to the final amount?

- 340.1 Where additional compensation is payable, the [Land Compensation \(Additional Compensation\) \(England\) Regulations 2024](#) provide for the calculation of interest on the difference between:

- (a) the original amount of compensation which was awarded or agreed to be paid to the claimant for the value of their interest in land taken
- (b) the additional amount of compensation assessed as due to the person in respect of the acquisition

The rate at which interest will accrue on the additional compensation payable is set at 0.5% below the Bank of England base rate. It will accrue from the date the original amount of compensation was paid until payment of the additional compensation is made. Interest accrued will also be subject to compound interest calculated on an annual basis. For the avoidance of doubt no interest will be payable on amounts in respect of costs or qualifying losses.

341 What are the relevant valuation dates for the assessment of additional compensation?

- 341.1 Where the original amount of compensation for the value of an interest in land taken (in accordance with the section 14A direction) was agreed, the relevant valuation date for the assessment of the alternative amount is the date on which the agreement was concluded.

341.2 Where the original amount of compensation for the value of an interest in land taken (in accordance with the section 14A direction) was awarded (i.e. paid by the acquiring authority, including in cases where it was determined by the Upper Tribunal (Lands Chamber)), the relevant valuation date is the same as the relevant valuation date used to determine the original amount of compensation, under [section 5A of the Land Compensation Act 1961](#). For example, if the relevant valuation date for determining the original amount of compensation under the section 14A direction was 2 January 2024, the same date will be used to assess the alternative amount of compensation even though the direction for additional compensation may have been made by the confirming authority on 2 January 2030.

342 Where additional compensation is payable, and the Crichel Down Rules apply, how should the rules relating to the disposal of land under the Crichel Down Rules be applied?

342.1 Where an acquiring authority wishes to dispose of land which was acquired as a consequence of a section 14A direction compulsory purchase order, and to which the Crichel Down Rules apply, the authority should notify the former owner that:

- (a) they may be entitled to make an application to the confirming authority who has responsibility for housing and planning matters for a direction for additional compensation under [Schedule 2A of the Land Compensation Act 1961](#)
- (b) if a direction for additional compensation is subsequently made, they may be entitled to submit a claim for additional compensation

342.2 If a direction for additional compensation is made, the Crichel Down Rules will apply unmodified. However, the disposing authority may wish to credit any additional compensation that becomes payable under the additional compensation procedure against the full market value sale price of the surplus land (determined in accordance with the Crichel Down Rules) in satisfaction or part satisfaction of that sale price. Guidance on the Crichel Down Rules is available on our website at: <https://www.gov.uk/government/collections/compulsory-purchase-system-guidance>

343 Where additional compensation is payable, what happens if an interest in land which was acquired via a section 14A direction compulsory purchase order was subject to a mortgage?

343.1 A person whose interest in land was compulsory acquired under a section 14A direction compulsory purchase order and was then subject to a mortgage may make an application for a direction for additional compensation as may a mortgage lender. They may also, where eligible, make a claim for additional compensation where a direction for additional compensation has been made by the confirming authority.

343.2 The existence of the mortgage when the interest in land was compulsory acquired with the section 14A direction is to be taken into account for the purpose of determining both the original and additional compensation amounts. In each case, it is important to determine to whom original compensation sums were paid.

- 343.3 Sums paid by the acquiring authority in respect of the original compulsory acquisition to a mortgage provider under [sections 15 or 16](#) of the Compulsory Purchase Act 1965 (where the mortgage debt exceeded the value of the mortgage land) or as advance payment of compensation under [sections 52ZA or 52ZB](#) of the Land Compensation Act 1973 are treated as 'original amounts' paid to that mortgage provider (as opposed to the person who held the land interest). To calculate the original amount that was paid to the land interest holder, and the alternative amount that would have been paid to them if no section 14A direction had been included in the compulsory purchase order, sums paid directly to any mortgage provider by the acquiring authority (and sums that would have been paid to the mortgage provider if the alternative amount had been paid) should be subtracted.
- 343.4 Where additional compensation is payable and there are outstanding loans secured by a mortgage on the relevant land at the date of the claim for additional compensation, the payment of additional compensation must be made to the mortgage provider for it to be put towards discharging the outstanding loans. Where there is more than one mortgage, payment of the additional compensation is to be made in order of the priority of the mortgage debts. Any excess is payable to the person who held the mortgaged land. If there are no outstanding loans secured by a mortgage at the date of the claim for additional compensation, the additional compensation is payable to the person who held the mortgaged land/property.
- 343.5 For example, in a case where:
- (a) the land is valued at £1 million because of the confirmation of a section 14A direction compulsory purchase order which would have been valued at £2 million without the existence of a section 14A direction
 - (b) the amount due on the mortgage at the time of the original relevant valuation date was £1.5 million
- £1 million compensation for land taken would be paid to the mortgage provider by the acquiring authority under [section 15 of the Compulsory Purchase Act 1965](#) while no compensation would be paid to the landowner. The outstanding debt on the mortgage would stand at £500,000.
- 343.6 Where additional compensation is payable, the mortgage provider would be able to claim the £500,000 difference between the amount it was paid under [section 15 of the Compulsory Purchase Act 1965](#) and the amount it would have been paid had the land been valued without the existence of a section 14A direction. However, where the landowner has subsequently made further payments under the mortgage to bring down the outstanding debt on the mortgage to £250,000, the mortgage provider would only be entitled to claim the outstanding balance of £250,000. The excess of £250,000 would be claimable by the landowner as additional compensation.

This amount would be in addition to the £500,000 which was not subject to the mortgage (£2 million minus £1.5 million) that the landowner would have been paid had the land been valued without the existence of a section 14A direction.

344 Can a payment of additional compensation include an amount to make good other financial losses suffered by an eligible person as a consequence of receiving the original amount of compensation rather than the alternative amount of compensation?

- 344.1 Financial losses which can be shown to have been suffered by an eligible person, or a person entitled to exercise the rights of that person, as a result of receiving the original amount of compensation rather than the alternative amount may be included in a claim for additional compensation. These losses will be “qualifying losses”.

345 What may be claimed as a qualifying loss?

- 345.1 The [Land Compensation \(Additional Compensation\) \(England\) Regulations 2024](#) allow qualifying losses to be claimed provided that:

- (a) the loss must have been reasonably foreseeable at the time the original compulsory purchase order was confirmed
- (b) the claimant must have taken all reasonable steps to mitigate the loss
- (c) there is no double recovery of sums claimed under other heads of claims such as in respect of costs or interest

- 345.2 Where the original amount of compensation received by the claimant, or the claimant’s predecessor in title, included a sum in respect of compensation under [section 5\(6\) of the Land Compensation Act 1961](#) for disturbance or any other matter not directly based on the value of land, that sum may be deducted from the amount of additional compensation payable if it would not have been paid had the original compensation amount been assessed in accordance with [section 14 of the Land Compensation Act 1961](#) (as amended by [section 189 of the Levelling-up and Regeneration Act 2023](#)).

346 Can a payment of additional compensation include a claimant’s costs of preparing and submitting their application and subsequent claim?

- 346.1 Additional compensation may include, where applicable, the payment of the claimant’s reasonably incurred expenses in connection with:

- (a) making an application under [paragraph 1\(2\) of Schedule 2A to the Land Compensation Act 1961](#) for a direction for additional compensation (including for example investigations to determine the extent to which an acquiring authority’s Statement of Commitment has been fulfilled) providing the confirming authority makes a direction for additional compensation

- (b) making a claim under [paragraph 1\(5\) of Schedule 2A to the Land Compensation Act 1961](#) for any additional compensation (including qualifying losses), this may include the issuing of a CAAD under [section 17 of the Land Compensation Act 1961](#) and in connection with an appeal under [section 18 of the Land Compensation Act 1961](#) where any of the issues are determined in the claimant's favour (section 17(10) of the Land Compensation Act 1961)

346.2 Reasonably incurred expenses could include for instance any reasonable valuation or legal expenses incurred by the claimant for the purposes of the preparation and prosecution of their claim. The Upper Tribunal (Lands Chamber) however retains discretion to make rulings about the costs of (and incidental costs) any proceedings before it ([section 29 of the Tribunals, Courts and Enforcement Act 2007](#)).

347 How does an eligible person submit a claim for additional compensation?

347.1 A claim for additional compensation including any interest accrued must be made in writing to the acquiring authority in accordance with the procedure set out in the [Land Compensation \(Additional Compensation\) \(England\) Regulations 2024](#).

348 What is the procedure for determining a claim for additional compensation?

348.1 On receipt of a claim for additional compensation, the acquiring authority will follow the procedure set out in the [Land Compensation \(Additional Compensation\) \(England\) Regulations 2024](#).

349 Where a direction for additional compensation is made and there is disagreement on the amount of additional compensation due, is there a time limit for when a referral may be made to the Upper Tribunal (Lands Chamber)?

349.1 If, following negotiations on the amount of additional compensation claimed, the claimant and acquiring authority cannot reach an agreement as to the amount due, a referral may be made by either party to the Upper Tribunal (Lands Chamber) for determination.

349.2 A referral of a disputed claim for additional compensation must be made to the Upper Tribunal (Lands Chamber) within six years of the date when the direction for additional compensation was made by the confirming authority. The applicable deadline for when a referral may be made to the Upper Tribunal (Lands Chamber) regarding a claim for additional compensation will be publicised in each case by the acquiring authority following making of a direction for additional compensation by the confirming authority.

349.3 Where a claim for additional compensations is deemed invalid by an acquiring authority under the [Land Compensation \(Additional Compensation\) \(England\) Regulations 2024](#), the six-year time limit for the making of a referral of a disputed claim for additional compensation will continue to run. If the claimant fails to re-submit a valid claim within the six-year time limit a referral of a disputed claim for additional compensation may not be made to the Upper Tribunal (Lands Chamber).

Separate but related guidance

350 What about related procedures?

Separate guidance on:

- Purchase Notices
- The Crichel Down Rules

is available to view on our website at:

<https://www.gov.uk/government/collections/compulsory-purchase-system-guidance>



THE DEPARTMENT
OF TRANSPORT

Local Authority Circular 1/97
(Department of Transport)

The Chief Executive

Highways Authorities and their
Agency Authorities in England

London Borough Councils

HIGHWAYS ACT 1980 : ORDERS UNDER SECTION 14 OF THE HIGHWAYS ACT 1980
AND OPPOSED ORDERS UNDER SECTION 124 OF THAT ACT.

1. The Department has prepared the attached Notes for Guidance, and specimen order forms, to assist local authorities making orders under s14, and s124, of the Highways Act 1980.
2. It is intended to supplement the Notes from time to time by more detailed advice notes covering specific drafting points, or other issues, about the making of s14 Orders.
3. Circular Roads 51/71, 64/72, 9/75 and 5/81 are hereby cancelled.

Highways Act 1980

NOTES ON THE PREPARATION, PUBLICATION AND
SUBMISSION OF:-

SIDE ROADS ORDERS, UNDER SECTION 14,
FOR HIGHWAY SCHEMES RELATING TO
CLASSIFIED ROADS; AND

OPPOSED ORDERS FOR CLOSURE OF PRIVATE
MEANS OF ACCESS TO PREMISES, UNDER
SECTION 124, WHERE THE ACCESS IS LIKELY
TO CAUSE A DANGER TO, OR INTERFERE
UNREASONABLY WITH, TRAFFIC ON THE
HIGHWAY.

FOR WHICH THE SECRETARY OF STATE FOR TRANSPORT IS
THE CONFIRMING AUTHORITY.

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SECTION 1 - SECTION 14 (s14) ORDERS FOR CLASSIFIED ROADS

PART 1 - GENERAL

1. POWERS

Highways works

- 1.1 An order under section 14 ("a s14 Order") of the Highways Act 1980 ("the Act") may authorise a highway authority for a classified road to stop up, divert, improve, raise, lower or otherwise alter a highway that crosses or enters the route of the classified road. The power extends to works being carried out on highways which will be "otherwise affected" by the construction or improvement of the classified road. Section 14 also provides for the construction of new highways for purposes concerned with any such alterations or related purposes. An order can authorise the construction of a highway for temporary purposes and provision can be made in the order for such a highway to be closed after a specified period.

Private means of access to premises

- 1.2 Section 125 of the Act provides that a s14 Order may authorise the highway authority to stop up private means of access to premises and to provide new means of access to premises.

Bridges over and Tunnels under Navigable Watercourses

- 1.3 Where alterations to side roads or provision of new means of access to premises under section 125 involve the construction of a bridge over, or tunnel under, a navigable watercourse, section 106(4) of the Act provides for authority to construct the bridge, or tunnel, to be included in the s14 Order. A highway authority may otherwise opt to obtain the authority for the bridge, or tunnel, by including it in a "scheme" under section 106(3) of the Act. It should be noted that such a scheme (under section 106(3)) is the only means by which a highway authority can obtain the authority which it requires to construct a bridge, or tunnel, which is to carry the ASSOCIATED classified road. Provision cannot be made for the construction of a classified road in a s14 Order and consequently s106(4) cannot be utilised to provide in the order for the construction of a bridge or a tunnel for the classified road over or under a navigable watercourse.

Diversion of Navigable Watercourses

- 1.4 Section 108(5) provides the authority, which a highway authority requires, to divert a navigable watercourse by its inclusion in a s14 Order where such diversion is necessary because of the classified road or its side roads works.

Land acquisition/sequence of orders

- 1.5 Land acquisition powers associated with the construction or improvement of highways, whether in respect of the classified road or its side roads, or the provision of new means of access to premises, are contained in sections 239 and 240 of the Act.
- 1.6 Highway authorities are asked to bear in mind the proper order of precedence of s14 Orders and related compulsory purchase orders. Where a compulsory purchase order provides "for the construction and improvement of highways and the provision of new means of access to premises in pursuance of the (Side Roads) Order 199 ", then it is essential that the compulsory purchase order be made and sealed after - not before - the s14 Order is made.
- 1.7 It is the precise statement of the s14 Order provisions which allows highway authorities to rely upon it as a definitive purpose, and obviate the need to repeat all of the s14 Order works as individual purposes in the compulsory purchase order. To depend on the s14 Order in this way, that order must have legal foundation by its making and sealing before the compulsory purchase order comes into being. Compulsory purchase orders which do not observe this requirement are rendered fundamentally deficient and cannot be confirmed until supplementary, or renewed, compulsory purchase order action is taken up by the highway authority.

2. CLASSIFICATION OF ROADS

- 2.1 The expression "classified road" is defined in section 329 of the Act as one which is classified in accordance with section 12 of that Act.
- 2.2 Where the classified road is a proposed new highway, or highways, its classification should be obtained before making the s14 Order. Applications for classification should be made to the Department of Transport at the appropriate regional Government Office.

3. CLASSIFIED ROAD WORKS

- 3.1 Section 24 of the Act provides for the construction of new highways by local highway authorities, subject of course to the requisite planning permission being obtained.
- 3.2 Where the proposed highway works are by way of an "improvement" of an existing highway, then local highway authorities have general powers available to them, under Part V of the Act, to carry out such works. More commonly, such improvement is likely to involve widening of a highway (section 72 of the Act) and/or raising or lowering the level of the highway (section 77 of the Act). In planning terms, such works fall within the provisions mentioned in paragraph 4.6 below.

- 3.3 It is these powers, together with any requisite planning permission, which give authority for construction and/or improvement of the classified road itself, not the s14 Order.

4. PLANNING PERMISSION

- 4.1 Where planning permission is required for a classified road or for its side road highway works, then the Secretary of State for Transport will not confirm a s14 Order until that planning application has been determined.
- 4.2 The absence of planning permission at the time an application for confirmation of a s14 Order is made, will not preclude it from proceeding through its normal statutory process, including the holding of any Inquiry into the s14 Order. If necessary, joint Inquiries into a planning application (were that decided upon) and a s14 Order can be held, together with any related compulsory purchase order Inquiry.
- 4.3 The local highway authority should advise the Secretary of State of the position on planning permission when it makes its application for confirmation of the s14 Order. It is appropriate for this information to be included in the Statement of Reasons required for the side roads order so that the position is brought to the attention of those served a copy of the order documents, and to the public, who may seek to inspect them on deposit.
- 4.4 It is clearly important therefore to determine whether the scheme involves the construction of a new highway or is a scheme for the improvement of an existing highway. In many cases the distinction is obvious but cases do arise (particularly where the scheme includes the significant realignment of an existing highway) in which it may be difficult to ascertain whether the scheme does involve the construction of a new length(s) of highway.
- 4.5 The proper criterion to be applied in all cases is that indicated in the wording of the description in Part 13 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995. This states that where all the projected works are to be carried out on land outside but adjoining the boundary of an existing highway the case is one involving the improvement of an existing highway only, but where works are to be carried out on other land so that, when the scheme is complete, there will be non-highway land between the projected works and the existing highway, then on that length the works should be regarded as works for the construction of a new highway. In the case of the latter specific grant of planning permission will be required.
- 4.6 Where classified road and/or side roads works are by way of highway improvement(s), the local highway authority should

state the planning status of those works also. This will be by way of such works falling to be considered under:-

- (a) section 55(2)(b) of the Town and Country Planning Act 1990; that is to say "the carrying out on land within the (existing) boundaries of a road by a local highway authority of any works required for or incidental to the maintenance or improvement of the road". These are works which do not amount to "development" and for which planning permission is not required; and/or
- (b) Part 13 of Schedule 2 to the Town and Country Planning General Permitted Development Order SI 1995 No 418 ("the 1995 GDO"). That is to say "the carrying out by a local highway authority on land outside but adjoining the boundary of an existing highway of works required for or incidental to the maintenance or improvement of the highway", which are works which have, by virtue of the 1995 GDO, been granted planning permission as "permitted development".

4.7 Illustrations showing the considered differences between "improvement" and "new construction" are given in Appendix III.

5. USE OF SECTION 14 PROVISIONS

Definitions of highways

5.1 In formulating its s14 Order proposals a local highway authority should recognise that, any new highway which it may propose to construct, as a side road, will only fall within one of the following categories:-

- (a) as a "road" (all-purpose highway), being a highway over which the public have rights of way on foot and with vehicles, and over which they may exercise an animal that can use a bridleway;
- (b) as a "bridleway", being a highway over which the public have a right of way on foot and a right of way on horseback or leading a horse, with or without a right of way to drive animals of any description along the highway. There is no other right of way on a bridleway, save under the Countryside Act 1968 (Section 30) which affords rights to ride a pedal cycle on a bridleway provided that cyclists give way to pedestrians and persons on horseback (unless expressly prohibited by order or byelaw);
- (c) as a "cycle track", being a highway over which the public have a right of way on pedal cycles, with or without a right of way on foot. When including a cycle track as a new highway in a s14 Order it should be specified as being with, or without, a right of way on foot; or

(d) as a "footpath", being a highway over which the public have a right of way on foot only.

5.2 Local highway authorities should ensure that, in the context of individual new highways, it is only such expressions which are used. Use of phrases such as "cycleway", "footway" etc, or any other expression not referred to in (a)-(d) would in such context be incorrect.

5.3 There are, however, other ancient highways which a local highway authority may find itself having to deal with in relation to classified road works:-

(i) Road Used as a Public Path (RUPP), often shown on the definitive map as Carriage-Road used mainly as a Bridleway (CRB), or Carriage-Road used mainly as a Footpath (CRF); or

(ii) Byway Open to All Traffic (BOAT).

5.4 Such highways, as well as their other rights, afford public rights of way for vehicular traffic. In terms of improvement of such highways, in a s14 Order, this may not be of significance, as it does not affect the rights of way of the highway concerned. In terms of stopping up of such a highway, however, the local highway authority in formulating its proposals, and the Secretary of State for Transport in considering their confirmation, would need to have regard to the requirements of s14(6) of the Act, namely that another reasonably convenient route (for all traffic types afforded rights over the stopped up highway) is available or will be provided before that highway is stopped up.

5.5 The local highway authority needs to make clear what existing and/or proposed highway(s) are intended to satisfy this requirement (in its Statement of Reasons, or elsewhere) when submitting its s14 Order proposals.

Stopping up highways and private means of access to premises

a. Highways

5.6 Highways legislation is considered to recognise the existence, construction, improvement, maintenance etc (and otherwise the ability to prohibit or restrict use of, or impose speed restrictions, under the authority of an order under the Road Traffic Regulation Act 1984) of highways as relating to "individual" and quite distinct highways with specific rights of way (see definitions in 5.1 and 5.3 above).

5.7 Accordingly, local highway authorities are required to fulfil the duty, imposed on them under section 130 of the Act, to assert and protect public rights to the use and enjoyment of any highway consistent with those rights.

- 5.8 While lawyers have differing views on whether or not more than one highway can exist at any one time on the same plane, there is no doubt that separate highways may exist on different levels, for example a footpath, bridleway or cycle track on a bridge over, or in underpass of, an all-purpose highway; or two all-purpose highways placed on separate levels in such a way.
- 5.9 Where, therefore, an existing highway crosses or enters a new highway, in the same plane, or crosses or enters the projected works of a highway improvement, it is sensible practice that the existing highway should be stopped up. In this way (in the case of works to a classified road by recourse to the use of s14 powers) the legal position will be put beyond doubt. The existing highway rights will be stopped up or diverted to make way for the new or improved highway.
- 5.10 Local highway authorities are, in adopting this approach, considered to be acting consistently with their duty under section 130 of the Act. In doing so they will also eliminate any doubt that may arise in future over the area, or areas, of highway concerned.
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- 5.11 In addition to stopping up highways which are crossed by, or which enter, the classified road, a local highway authority may propose that certain side road connections will cease. Stopping up would, in those cases, extend over that length of highway (outside the classified road confines) which will no longer continue.
- 5.12 Where any existing side road is, under the proposals, to take on a different status from its present one then that length of side road should be stopped up in the order, with the new highway, of that different status, included as a new highway to be constructed. For example, an all-purpose side road which is to become a footpath or bridleway and which will involve works of construction consistent with its proposed new found status.
- 5.13 Section 14 does not confer any authority for merely "downgrading", or in some cases "upgrading", rights of way associated with a particular highway. Highway authorities should bear this in mind when formulating their s14 Order proposals and include such works as detailed above in a s14 Order.
- 5.14 It should also be remembered that there will be a requirement to acquire the land necessary for any new highway proposed over a stopped up highway, in a compulsory purchase order if needs be. Such land when freed from its existing highway rights at the time of stopping up (which precedes the construction of any new highway thereover) will in absence of proof of title revert to the sub-soil owner. In order to construct the new highway, that land will, therefore, need to be secured, by acquisition from, or dedication by, that land owner for the new highway purpose.

b. Private means of access to premises

- 5.15 Where, in consequence of the classified road works, any recognisable private means of access, from a highway to premises, (premises in this context including land and buildings) will be severed, then provision should be included for stopping up that access where it is crossed by the route of the new or improved classified road.
- 5.16 The stopping up recommended at 5.15 above will remove the private rights of access, over the length severed, to the premises concerned. Any replacement access proposals should also be included in the order (see 5.23 to 5.27 below).
- 5.17 Certain accesses from a highway to premises may only have recognisable features such as a field gate, with no identifiable track extending from it. Where such accesses are to be removed in consequence of the classified road works, provision should be included for stopping up that access, over a nominal length from the highway with which it connects, to make clear the intention of its removal.
- 5.18 It is important for local highway authorities to remember that where private means of access to premises presently exist from a highway which is itself to be stopped up, then those accesses should also be stopped up as provisions of the order. It is not sufficient for the highway only to be stopped up. The parties concerned with such accesses should be left in no doubt of their removal and be given statutory entitlement to service of notice under paragraph 3 of Schedule 1 to the Act.
- 5.19 Additionally, not unlike his duty in respect of highways, the Secretary of State must be satisfied, under section 125(3) of the Act, that where stopping up of an access is proposed, either no access to premises is reasonably required, or that other reasonably convenient means of access to the premises is available or will be provided. He can only make such judgement, as can those directly affected make any representation in that regard, if existing accesses are included in the order to be stopped up, and the new proposals detailed, or an explanation is given in the Statement of Reasons if no alternative is proposed.

Construction of new highways and improvement of existing highways as side road works to the classified road.

- 5.20 The powers available to local highway authorities to construct new highways and to improve existing highways (see 3.1 to 3.3 above) can also be used for side roads works. Therefore, it is not necessary for a local highway authority to seek authority to carry out such works by way of a s14 Order. It is necessary, however where the local highway authority propose to improve or alter a highway or highways of another highway authority.

- 5.21 Nevertheless, local highway authorities are strongly encouraged to include "all" works of improvement, construction etc in respect of side roads, in a s14 Order. In doing so the public, and the Secretary of State who is being asked to confirm the order, are given a complete picture of the proposals.
- 5.22 More importantly, such works of new construction and/or highway improvement to side roads are very often associated with providing another reasonably convenient alternative route for a highway, or highways, which are to be stopped up in accordance with section 14(6) of the Act. (See para 5.4 above). Their inclusion in the s14 Order, therefore, is likely to avoid unnecessary enquiries from the public, and the Secretary of State for Transport, about how the requirements of section 14(6) of the Act are to be satisfied.

Provision of new means of access to premises

- 5.23 Local highway authorities have general powers to provide new means of access to premises (under section 129 of the Act). ~~Where it is proposed to provide new means of access to premises in connection with classified road proposals, these should be shown in the order.~~
- 5.24 This course is suggested irrespective of whether or not the access is to replace one which is being stopped up. For example, where the local highway authority is providing additional accesses from, and in consequence of severance of certain premises by the classified road.
- 5.25 If it is a local highway authority's intention, in every case of stopping up an access, to satisfy the criterion of section 125(3) of the Act by providing a new means of access to premises, then the Secretary of State needs to be satisfied not only that the local highway authority is willing to provide such an access, but that it is in a legal position to do so. This applies equally to any new means of access to premises the local highway authority may propose in its scheme to counter the effects of severance of premises.
- 5.26 Sometimes (usually for design reasons) it is necessary for a new means of access to be laid out in a particular manner on a particular line, on land which is not owned by the local highway authority. In such circumstances, the Secretary of State could only be satisfied that the requirements of section 125(3) of the Act have been met if the local highway authority has already obtained agreement, from the land owner, to enter upon that land for provision of the access, or if such land was included in an associated compulsory purchase order which he is being asked to consider simultaneously.
- 5.27 Similarly, in cases where any new means of access is proposed over land in ownership other than that of the premises to which the new access is to be provided, the

Secretary of State could only be satisfied that this was a reasonably convenient access if the owner of those premises were to be granted legally enforceable private rights of way over the land to be traversed by the access. Usually, in such circumstances, the local highway authority will need to include such land in a compulsory purchase order for the purpose of providing the new access; as prospective land owner (if the compulsory purchase order were to be confirmed) it could then grant those third party rights.

Illustrations of the use of s14 provisions

5.28 Local highway authorities may find the illustrations and comments contained in Appendix III useful by way of practical examples of the issues covered by this section.

6. OTHER ASPECTS OF SECTION 14

- 6.1 Section 14 Orders of the Act are made by the local highway authority for the classified road and submitted to the Secretary of State for Transport for confirmation. The procedure for publication of the made order, submission to the Secretary of State and service of notice is set out in Schedule 1 to the Act.
- 6.2 As mentioned in paragraph 5.4, the Secretary of State cannot confirm an order authorising the stopping up of a highway unless he is satisfied that another reasonably convenient route is available or will be provided before the highway is stopped up.
- 6.3 Similarly, as mentioned in paragraph 5.19, the Secretary of State cannot confirm an order authorising the stopping up of a private means of access to premises unless he is satisfied that no access to the premises is reasonably required, or that another reasonably convenient means of access to the premises is available or will be provided. In practice it is considered that few cases will fall into the former category. It may apply, however, where the whole of the premises concerned are to be absorbed by the Scheme proposals and its acquisition included in an associated Compulsory Purchase Order.
- 6.4 An order under sections 14 and 106(4) will be subject to special parliamentary procedure where there is a sustained objection, from the navigation authority or water authority, on the grounds that the bridge or tunnel authorised by the order is likely to obstruct or impede the performance of their statutory functions, or interfere with the reasonable requirements of navigation over the waters affected.

PART 2 - THE ORDER : PREPARATION AND PUBLICATION

7. GENERAL

- 7.1 To assist local highway authorities specimen orders (Forms A and B) are provided at Section 3.
- 7.2 Further advice and guidance on specific and complex or unusual drafting points can be obtained from the Department of Transport, Local Authority Orders, Wellbar House, Gallowgate, Newcastle upon Tyne NE1 4TD. It is expected, however, that advice will be needed only in such circumstances. The Department is not resourced to provide a facility for the routine clearance of draft orders; for which local highway authorities should have access to their own legal advice.
- 7.3 Any advice or guidance provided by the Department is without prejudice to the Secretary of State's consideration of made Orders submitted to him for confirmation.

8. THE ORDER

- 8.1 It is important that the classified road definition in the Order is accurate, and as clear as possible. (This is to enable the Secretary of State to establish that the Order provisions are accurate and consistent with it.)
- 8.2 Having been defined, the s14 Order can then seek no authority for works of the classified road (see paragraphs 3.1 to 3.3 for how such authority is obtained). The classified road should be illustrated by a unique symbol on the plan(s), identified in the plan symbols key, and its boundaries should be clearly identifiable throughout. This is particularly important where the classified road intersects, or encroaches upon, side roads as it is in these circumstances where the local highway authority will need to formulate its s14 Order provisions for stopping up highways etc.
- 8.3 Schedule descriptions of highways and private means of access to premises which are to be stopped up should be accurate and readily understood. Use of "approximately" in measurements is considered inappropriate and should not be necessary. Measurements should be taken from a common point on highways and accesses (which is stated in the order rather than in each schedule description); eg "from the centre line of its junction with".
- 8.4 It is suggested that descriptions of stopped up highways etc will be more readily identifiable by the public if referenced to other existing highways or accesses; eg "the A123 from a point 140 metres north of the centre point of its junction with the B123 northwards for a distance of 20 metres".

- 8.5 In cases where the classified road is far removed from the existing highway network, this may not be practicable. In such cases, reference may have to be made to the (defined) classified road, eg "Footpath No 1 where it is crossed by the classified road [,a distance of 20 metres]".
- 8.6 In describing private means of access to premises to be stopped up, the description should include reference to the highway from which the access extends (even if the access is not being stopped up from that highway source) and all premises which the access serves ie "access from the A123 to Nos 1, 2 and 3 Briar Cottages", "access from Smith Lane to Orchard Farm, where that access is crossed by the classified road".
- 8.7 In certain cases, for example where the access is not removed from its highway source but severed elsewhere along its route, it may be appropriate to give a measurement of the access to be stopped up. The latter description in 8.6 above is such an example, but a measurement is not essential as "where the access is crossed by the classified road", identifies where the access would be severed.
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- 8.8 The Department recommends use of either Form A or Form B (see Section 3). These allow for highways which are to be improved to be named in the Schedule, for new highways to be identified by the reference letters given to such highways on the plan(s), and for new means of access to premises to be identified by the reference numbers given to such accesses on the plan(s).
- 8.9 These s14 Order provisions should only be included in the Schedule by description when it is absolutely necessary; eg so that the s14 Order can be treated as an "event order" in accordance with the Wildlife and Countryside Act 1981, or where complexity of the route necessitates it. Otherwise any inaccuracy in description may create problems, and perhaps fundamental deficiency in the order. Whatever means local highway authorities use to include these provisions they should be consistent with Article 1 of the s14 Order (see Forms A & B in Section 3). It is not appropriate for instance, in respect of highways to be improved, for some to be named and others to be described; nor in respect of highways or accesses to be constructed or provided, for some to be identified by reference letter, or reference number, and others to be described.
- 8.10 Use of Form A, requires that reference letters and numbers of new highways and new means of access, respectively, be placed opposite descriptions of the stopped up highways and accesses in which connection they are being provided. It is considered that this will offer a better public understanding of the relationship between the two, and what role such new highways or accesses have in fulfilling the requirements of s14(6) and section 125(3) of the Act (see paragraphs 6.2 and 6.3 above).

9. THE PLAN(S) (See Appendix II for Plan Symbols to be used)

- 9.1 Plans should be to a scale of not less than 1/2500, with a key plan of 1/10,000 if a number of site plans are necessary. A north marker should be clearly shown on each plan. Where there is more than one plan they should be bound into a plan folio bearing the title of the s14 Order, a legend of the symbols used (see Appendix II), the Council's seal, date and seal number. It should state the contents of the folio (key plan and site plan 1 to ...). The scale should be marked on every plan, and on every inset (except where the scale for the inset is no different from the base plan scale). The use of insets can be particularly useful where order provisions overlap. Where a single plan is involved it should bear the title of the s14 Order, and contain a legend of the symbols used (see Appendix II).
- 9.2 All reference points, landmarks, highways, premises, OS Field Numbers, etc given or used in any of the descriptions contained in the schedule(s) to an order should be clearly marked on the site plan(s), for cross reference purposes. ~~Where a description includes a reference to OS Field~~ numbers, the description should also state or refer to the sheet numbers of the Ordnance Survey maps on which those field numbers appear. The Ordnance Survey map reference should quote the edition of the map.
- 9.3 The Special Road (Schemes) and Highway Orders (Procedure) Regulations (SI 1993 No 169), made pursuant to sections 324(2) and 324(3) of the Act, should be noted. Regulation 4(2) provides that the centre line of a new highway constructed in pursuance of a s14 Order is to be shown on a plan.
- 9.4 It is not expected that the provisions relating to deviation (section 324(3) and Regulation 5 of the 1993 Regulations) will be of any great relevance in the case of s14 Orders. If, however, deviation is to be included, the limits of deviation permitted by the order should be shown by the manner prescribed in Regulation 5, ie by broken lines placed at an appropriate distance on each side of the centre line, or by descriptive statement written on or attached to the plans.
- 9.5 Where the s14 Order provides for a bridge over or tunnel under navigable waters a plan and specifications will be required (see section 107(4) of the Act):-

For a Bridge -

showing the position and dimensions of the proposed bridge including its spans, headways, the waterways and, in the case of a swing-bridge such provisions as the Minister considers expedient for regulating its operation;

For a Tunnel - showing the position and dimensions of the proposed tunnel including its depth below the bed of the navigable waters.

The requirements here are the same as for section 106(3). (See Circular Roads 50.72.)

- 9.6 The plans and specifications should be included in a separate schedule to the order. The Secretary of State has no power to modify orders where such fundamental detail is omitted.
- 9.7 Where a navigable watercourse is to be diverted in connection with the provision of a bridge or tunnel then the bridge/tunnel plan should also show, by outlining and annotation, the existing channel of the watercourse and the proposed new channel. Where a navigable watercourse is otherwise to be diverted in connection with the classified road or other highways works the new and existing channel should be shown outlined and annotated, on the appropriate site plan, by inset if these details would be obscured by other features.
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- 9.8 If the navigable bridge/tunnel crossing proposed is of "tidal" navigable waters, or works of diversion relate to tidal waters, the local highway authority will require additional consent under section 34 of the Coast Protection Act 1949 (as amended by section 36 of the Merchant Shipping Act 1988). Section 34 consent applications should be submitted to Department of Transport, Ports Division 2, Floor 1, Great Minster House, 76 Marsham Street, SW1P 4DR, who should also be advised at the earliest possible stage of any such schemes.
- 9.9 All related authorities and consents will normally be determined at the same time as the s14 Order. This is to avoid the possibility of an early decision on one matter prejudicing a later one.

10. THE PUBLIC NOTICE

- 10.1 As mentioned in paragraph 6.1 above the requirements relating to notice of making a s14 Order are set out in Part I of Schedule 1 to the Act. Notice of making should be served on those persons specified in the head or heads of the Table set out at the end of paragraph 3 of the Schedule. A specimen notice is attached at Form D (Section 3).
- 10.2 Local highway authorities are advised to ensure that notices are served on the parties well in advance of the publication of the notice in the press (see paragraph 10.3 below), and must be served no later than the publication date. Failure to serve notices in advance of the publication date can only be remedied by full re-publication of notice and re-start of the objection period (see paragraph 13.3 below).

- 10.3 Notice must be published in the London Gazette and at least one local newspaper. It must, in addition, be displayed, in accordance with paragraph 4 to Schedule 1 of the Act, at the end of each highway proposed to be stopped up or diverted.

11. STATEMENT OF REASONS

- 11.1 It is recommended that, as in the case of local highway authority compulsory purchase orders, a Statement of Reasons is prepared by the order making authority. This should explain the proposals in terms easily understood by the public. (Statement of Reasons may be drafted so that they can also serve as the Statement of Case required by Rule 16 of the Highways (Inquiries Procedure) Rules 1994 (SI 1994 No 3263)).

12. PUBLICITY

- 12.1 Local highway authorities are empowered by Schedule 1, Part III, paragraph 17 to give the proposals in the s14 Order such publicity over and above the statutory requirements as appears to the local highway authorities to be desirable. The Department considers that additional publicity is worthwhile, particularly in relation to potentially contentious schemes.
- 12.2 Consequently, the Department will expect local highway authorities, in the spirit of Schedule 1, Part III paragraph 17, to take measures designed to bring their proposals fully to the attention of the public generally and, in particular, those persons directly affected by the order.

13. THE OBJECTION PERIOD

- 13.1 Under Part I of Schedule 1 to the Act, the objection period must be a minimum of 6 weeks from the date of the notice mentioned in paragraph 10.3 above. In deciding the length of time to be allowed the Department suggests that account be taken of factors such as the scope of the proposals, extent of likely public interest and the incidence of general and local holidays.
- 13.2 Paragraph 17 of Schedule 1 should be borne in mind here as the Department will not expect the minimum period to be regarded as the norm. If, in the opinion of the Secretary of State, an inadequate period has been allowed, he may ask the local highway authority to consider extending the period.
- 13.3 Paragraph 5 of Schedule 1 provides for the extension of the objection period. Local highways authorities should note that the provisions of paragraphs 5 and 6 require that Notice be re-published and also re-served on all persons on whom it was originally served (although not with a copy of the order and map previously served).

14. SUBMITTING A S14 ORDER

- 14.1 In general, the procedure for confirming s14 Orders will follow those used for confirming local highway authorities compulsory purchase orders.
- 14.2 Two sealed orders and plans, and the public notice, should be sent to the Department of Transport, Local Authority Orders, Wellbar House, Gallowgate, Newcastle upon Tyne NE1 4TD, preferably just before the order is published. If the order is not to be submitted before that date, the public notice to be published must be worded accordingly, ie "the order is about to be submitted to the Secretary of State", rather than the order has been submitted.....". The documents should be accompanied by a letter, requesting confirmation of the order, together with the further documents listed at Appendix I to this circular, as soon as those documents become available.
- 14.3 The Local Authority Orders section will acknowledge receipt of the order.

PART 3 - OBJECTIONS, PUBLIC INQUIRIES, CONFIRMATION

15. OBJECTIONS

- 15.1 Objections and representations received by the Secretary of State will be copied to local highway authorities at the end of the objection period. All objections will be considered before a decision is taken by the Secretary of State on s14 Order applications. The Secretary of State will decide whether a public local inquiry should first be held to consider the objections.
- 15.2 A public inquiry must be held if there are unresolved objections from certain statutory bodies. In other cases the Secretary of State may dispense with such an inquiry if he is satisfied that in the circumstances an inquiry is unnecessary, although this will normally be an exception.

16. PUBLIC INQUIRIES

- 16.1 The Secretary of State will appoint an independent inspector to conduct the inquiry. The local highway authority will be responsible for all other administrative arrangements such as finding a suitable venue. Costs of the arrangements will be met by the authority as will the inspector's fees and expenses.
- 16.2 The arrangements for the inquiry will follow those laid down in the Highways (Inquiries Procedure) Rules (SI 1994 No 3263) and, if held concurrently into a Compulsory Purchase Order application, the Compulsory Purchase by Non-Ministerial Acquiring Authorities (Inquiries Procedure) Rules (SI 1990 No 512).

17. CONFIRMATION

- 17.1 Confirmation will usually be by endorsement of the sealed copy of the s14 Order. The s14 Order may be confirmed with or without modification, or in part only whilst a decision is deferred to the remaining part.

SECTION 2 - SECTION 124 (s124) ORDERS

18. GENERAL

- 18.1 Section 124 of the Act enables local highway authorities to stop up by order a private means of access from a highway to any premises where it is considered that the private means of access is likely to cause a danger to, or interfere unreasonably with, traffic on the highway. It should be noted, however, that the danger or interference must relate to conditions on the existing highway rather than those arising as a result of highway construction or improvement.
- 18.2 A s124 Order must be made by the local highway authority and a specimen order form is included at Form C. If there are objections to the s124 Order it must be submitted to the Secretary of State for Transport for confirmation. Where no such objections are made, or all such objections are withdrawn within the required objection period then the s124 Order may be confirmed by the local highway authority.
- 18.3 Before confirming a s124 Order, there is a general requirement for the confirming authority (whether it be the local highway authority or Secretary of State) to be satisfied that either no access to the premises from the highway in question is reasonably required or that another reasonably convenient means of access to the premises is available or will be provided. (See Section 124(3) of the Act).

19. PROCEDURES

- 19.1 The procedures for making a s124 Order are detailed in "The Stopping up of Accesses to Premises (Procedure) Regulations (SI 1971 No 1707)". Although the Regulations refer to the Highways Act 1971 they are still applicable to s124 Orders under the Highways Act 1980.
- 19.2 The Regulations require the publication in a local newspaper of a notice of the making of the s124 Order by the local highway authority (a specimen notice of making a s124 Order included at Form E). A copy of the notice must be served on the owner(s) and occupier(s) of the premises affected, and must give a minimum 28 day objection period. Where the stopping up of a means of access to premises involves the provision of a new means of access, to those premises, it is necessary for the route of the new means of access to be shown on the order plan. The owner and occupier of the land across which the new route will run

must (if different from the owner and occupier of the affected premises) be served with a copy of the notice.

20. SUBMISSION TO THE SECRETARY OF STATE

20.1 If an objection by the owner, lessee or occupier of the affected premises to a s124 Order, made by a local highway authority, is received by that authority within the objection period and that objection is not withdrawn then the s124 Order must be submitted to the Secretary of State for determination. The following documents should be included:-

- i) the original sealed s124 Order together with two copies (1 certified);
- ii) the original and two copies of any objection and of all correspondence which the authority has had with any objector since receipt of the objection;
- (iii) in a case where the authority desires modifications to be made to the order, three copies of a statement of those modifications and of the authority's reason for making them

and must at the same time notify each objector in writing of the action which it has taken.

20.2 Before the Secretary of State confirms a s124 Order, made by a local highway authority, he is required to consider any objections submitted to him by the order making authority and any proposals for modifying the order. He may, if considered necessary, convene a local inquiry in connection with the order and must consider the report of the person who held the inquiry.

20.3 Schedule 2 paragraph 1 of the Act has effect as to the validity and date of coming into force of a s124 Order, both where the s124 Order is confirmed by the Secretary of State and where it is confirmed by the local highway authority. In both instances notice of confirmation is required to be served on the owners and occupiers of the premises and affected land and published in the local press (a sample Notice of Confirmation of a s124 Order is included at Form F).

SECTION 3 - SPECIMEN S14 AND S124 ORDERS

SPECIMEN S14 ORDER (SINGLE SCHEDULE)

Form A

HIGHWAYS ACT 1980

The Council
(.....toClassified Road).
(Side Roads [and other Works]) Order 19..

The ⁶..... Council
make this Order in exercise of their powers under sections [6],
[8], 14 and 125³ of the Highways Act 1980 and all other powers
enabling them in that behalf:-

1. (1) The Council are authorised in relation to the classified
road at in the County of to:

- (a) improve the length[s] of highway named in the Schedule
to this Order and shown on the Site Plan by cross
hatching;
- (b) stop up [the][each] length of highway described in the
Schedule and shown on the Site Plan by zebra hatching;
- (c) construct a new highway along [the][each] route whose
centre line is shown on the Site Plan by an unbroken
black line surrounded by stipple;
- (d) stop up [the] [each] private means of access to
premises described in the said Schedule and shown on
the Site Plan by a solid black band; and
- (e) provide new means of access to premises along
[the][each] route] [or] [at [the][each] location]
shown on the plan by thin diagonal hatching.

(2)⁴ Where a new highway is to be constructed [⁵wholly or
partly] along the same route as a new access [⁵or part of one],
that new highway shall be created subject to the private rights
over that new access.

(3) Each new highway is given a reference letter on the
Site Plan, which is also placed in the said Schedule, and will
be a road [⁵unless the word ["footpath", "bridleway" or "cycle
track" appears beneath its reference letter in the Schedule, in
which case it will be a [⁵footpath, bridleway or cycle track]
⁵[(as the case may be)]. Each new access is given a number on
the Site Plan, which is also placed in the said Schedule.

(4) Where a new highway is to be constructed or a new
access is to be provided in connection with the stopping up of
a length of highway or private means of access described in the
said Schedule, its reference letter or number (as the case may
be) is placed in the said Schedule opposite the description of
that length.

(5) The Site Plan shows the works indicated in the said Schedule and the route of the classified road in relation to those works.

2⁷. The new highway[s] given the reference letter[s] [&.....] in the said Schedule and on the Site Plan, with [in each case] the words "temporary highway" placed in brackets beneath, [is] [a] [are] highway[s] to be constructed for temporary purposes, and the Council are authorised to close [that] [each] temporary highway at the end of seven days from posting a notice at each end of the temporary highway [concerned] to indicate that it is no longer needed for public use.

3⁸. Each new highway shall be transferred to the Council, from the date on which the Council notify the said Council that the new highway has been completed and it is open for through traffic.

4. Where immediately before a length of highway is stopped up in pursuance of this Order there is under, in, on, over, along or across that highway any apparatus of statutory undertakers or any telecommunications code system operator then, subject to section 21 of the Highways Act 1980, those undertakers, or that operator, as the case may be, shall have the same rights as respects that apparatus as they had immediately before the stopping up took place.

5. In this Order:

(a) ⁹distances are measured along the route of the relevant highway [³or private means of access to premises, as the case may be];

(b) "the classified road"

- means [the
to Classified Road (A) (B)
(C)]

[the highway which the
Council propose to construct
[improve] from
to]

[and which is a highway/
proposed highway which has
been classified by the
Secretary of State for
Transport as a principal road
for purposes of the
enactments and instruments
which refer to highways
classified as principal
roads.]

[and which is a
highway/proposed highway
which is a classified road in
accordance with section 12 of
the Highways Act 1980];

"the Council"	-	means the Council;
"improvement"	-	in relation to a highway includes raising, lowering or otherwise altering that highway, and "improved" shall be construed accordingly;
"new access"	-	means a means of access to premises authorised by this Order to be provided;
"new highway"	-	means a highway authorised by this Order to be constructed and "new highways" shall be construed accordingly;
"the Site Plan"	-	means [a] [the] Site Plan [contained in the plan folio] numbered ... marked "The Council (..... to..... Classified Road) (Side Roads [and other works]) Order 19...", sealed with the Common Seal of the Council and deposited at the offices of the Council at; a duplicate has been deposited in the Offices of the Secretary of State for Transport.

THE SCHEDULE

Locality -

Highway[s] to be improved

Acacia Avenue

The Carlton-on-Trent - Ossington Road

Mill Lane

Highway[s] to be stopped up

Reference letter(s) of new highway[s]

The whole of River Street

-

Meadow Way from its junction with
the western boundary of the classified
road to its junction with Norwell Road
(a distance of ... metres)

A

Footpath No. 1 (Mallingdon) -

B

(a) for 100 metres westwards from
the eastern boundary of the classified road,
and

Footpath

(b) from its junction with Norwell Road
to the northern side of the new highway
given the reference letter A on the Site
Plan (a distance of ... metres)

D
Temporary
Highway

Bridleway No 6 (Eatwell, for 81 metres
from its junction with Mill Lane)

E
Bridleway

Private means of access to be stopped up

Reference number(s) of new accesses

Access from [highway no & name]
to the Red House, between
the boundaries of the classified road

1

Access to OS field No. 3557, for 35
metres eastwards from its junction
with Green Lane.

2 & 3

Given under the Common Seal of the Council on the
..... day of 199

The Common Seal of the
Council was hereunto affixed
in the presence of:

..... Chairman of the Council

..... Secretary to the Council.

HIGHWAYS ACT 1980

The Council
(.....to Classified Road).

(Side Roads [and other Works]) Order 19 ..

The⁶ Council make this Order in exercise of their powers under section [6], [8], 14, 106¹, 108², and 125³ of the Highways act 1980 and all other powers enabling them in that behalf:-

1. (1) The Council are authorised in relation to the classified road at in the County of to :-

- (a) improve the length[s] of highway named in the Schedules and shown on the corresponding Site Plan by cross hatching;
- (b) stop up [the][each] length of highway described in the Schedules and shown on the corresponding Site Plan by zebra hatching;
- (c) construct a new highway along [the][each] route whose centre line is shown on a Site Plan by an unbroken black line surrounded by stipple;
- (d) stop up [the] [each] private means of access to premises described in the Schedules and shown on the corresponding Site Plan by a solid black band; and
- (e) provide new means of access to premises along [the][each] route] [or] [at [the][each] location] shown on a Site Plan by thin diagonal hatching.

(2)⁴ Where a new highway is to be constructed [⁵wholly or partly] along the same route as a new access [⁵or part of one], that new highway shall be created subject to the private rights over that new access,

(3) Each new highway is given a reference letter on a Site Plan, which is also placed in the respective Schedule, and will be a road [⁵unless the word ["footpath", "bridleway" or "cycle track" appears beneath its reference letter in that Schedule, in which case it will be a [footpath, bridleway or cycle track]

⁵[(as the case may be)]. Each new access is given a number on a Site Plan, which is also placed in the respective Schedule.

(4) Where a new highway is to be constructed or a new access is to be provided in connection with the stopping up of a length of highway or private means of access described in a Schedule, its reference letter or number (as the case may be) is placed in that Schedule opposite the description of that length.

(5) Each Site Plan shows the works indicated in the respective Schedule and has the same number as that Schedule, and the route of the classified road in relation to those works.

2⁷. The new highway[s] given the reference letter[s] [&....] in Schedule and Site Plan numbered [and [&....] in Schedule and Site Plan numbered] with [in each case] the words "temporary highway" placed in brackets beneath, [is a] [are] highway[s] to be constructed for temporary purposes, and the Council are authorised to close [that] [each] temporary highway at the end of seven days from posting notices at each end of the temporary highway [concerned] to indicate that it is no longer needed for public use.

3⁸. Each new highway shall be transferred to the Council, as from the date on which the Council notify the said Council that the new highway has been completed and it is open for through traffic.

4. Where immediately before a length of highway is stopped up in pursuance of this Order there is under, in, on, over, along or across that highway any apparatus of statutory undertakers or any telecommunications code system operator, then, subject to section 21 of the Highways Act 1980, those undertakers, or that operator as the case may be, shall have the same rights as respect that apparatus as they had immediately before the stopping up took place.

5. (1) The Council are also authorised -

- (a) to construct, as part of the new highway lettered in Schedule and Site Plan numbered ..., a bridge in accordance with the description and specification stated in Schedule and Site Plan numbered ...;
- (b) in connection with the construction of the bridge referred to in paragraph (a) above, to divert that part of the navigable watercourse identified in Schedule and Site Plan numbered ... in the manner indicated in that Schedule and shown on that Site Plan;
- (c) to construct, as part of the new means of access to premises numbered ... on Schedule and Site Plan numbered, a bridge in accordance with the description and specification stated in Schedule and Site Plan numbered ...; and

(d) in connection with the [construction of the classified road] [the construction of the new highway lettered and identified in the Schedule and Site Plan numbered] [the alteration of the highway known as and identified in Schedule and Site Plan numbered] [the provision of the new means of access to premises numbered and identified in Schedule and Site Plan numbered ...] to divert the part of the navigable watercourse identified in Schedule and Site Plan numbered ... in the manner indicated in that Schedule and shown on that Site Plan.

(2) the length[s] of watercourse[s] to be diverted and the new lengths of watercourse[s] to be provided in pursuance to this Article [is][are] identified in Schedule[s] and Site Plan[s] numbered [and ..] by [symbol] in the case of the length[s] to be diverted and by [symbol] in the case of the new length[s] to be provided.

6. In this Order:

(a) ⁹distances are measured along the route of the relevant highway [³or private means of access to premises, as the case may be];

(b) a reference to a Schedule or Site Plan number is a reference to the Schedule, or to the Site Plan, so numbered;

(c) "the classified road"

- means [the Principal/
Classified Road (A) (B) (C)]

[the highway which the
Council propose to
[construct] [improve] from
to
]

[and which is a highway/
proposed highway which has
been classified by the
Secretary of State for
Transport as a principal road
for purposes of the
enactments and instruments
which refer to highways
classified as principal
roads.]

[and which is a
highway/proposed highway
which is a classified road in
accordance with section 12 of
the Highways Act 1980];

"the Council"

- means the
Council;

- "improvement" - in relation to a highway includes raising, lowering or otherwise altering that highway, and "improved" shall be construed accordingly;
- "new access" - means a means of access to premises authorised by this Order to be provided;
- "new highway" - means a highway authorised by this Order to be constructed and "new highways" shall be construed accordingly;
- "Schedule" - means a Schedule to this Order, and "Schedules" shall be construed accordingly;
- "Site Plan" - means one of the plans numbered to contained in the Plan Folio numbered ... marked "The Council
 (... ..
 to
 Classified Road) (Side Roads [and other works]) Order 19...", sealed with the Common Seal of the Council and deposited in the offices of the Council at

;

a duplicate has been deposited in the offices of the Secretary of State for Transport.

SCHEDULE 1

[Site plan title]

[Locality]

Highway[s] to be improved

Acacia Avenue

The Carlton-on-Trent - Ossington Road
Mill Lane

Highway[s] to be stopped up

Reference letter(s) of new highway[s]

The whole of River Street

-

Meadow Way from its junction with
the western boundary of the classified
road to its junction with Norwell Road
(a distance of ... metres)

A

Footpath No. 1 (Mallingdon) -

(a) for 100 metres westwards from
the eastern boundary of the classified road,
and

(b) from its junction with Norwell Road
to the northern side of the new highway
given the reference letter A on the plan
(a distance of ... metres)

B
Footpath

D
Temporary
Highway

Bridleway No 6 (Eatwell), for 81 metres
from its junction with Mill Lane

E
Bridleway

Private means of access to be stopped up

Reference number(s) of new accesses

Access from [highway no. & name] to
the Red House, between the boundaries of
the classified road

1

Access to OS field No. 3557, for 35
metres eastwards from its junction
with Green Lane.

2 & 3

[Locality]

[Here insert Bridge specifications]

Locality -

Length of watercourse

The [River]
[..... Canal] between
a point [describe] and a
point [describe]

New lengths of watercourse -
to be provided

A length between the two points described above. The minimum width of the new length shall be X metres and its minimum depth shall be Y metres throughout its entire length.

Given under the Common Seal of the Council on the
..... day of 199 .

The Common Seal of the
Council was hereunto affixed
in the presence of:

..... Chairman of the Council

..... Secretary to the Council.

The Council (Stopping up Private Means of Access to Premises at Order 199

The⁶ Council make this Order in exercise of their powers under Section 124 of the Highways Act 1980 and of all other powers enabling them in that behalf:

1. The Council are authorised to stop up [vehicular use of] the private means of access to premises described in the Schedule to this Order and shown on the Site Plan by [a] solid black band[s], which [vehicular use of the] private means of access to premises being considered by the Council to be likely [to cause danger to] [and] [to interfere unreasonably with] traffic on [the] [each] highway specified in the said Schedule from which the [respective] private means of access to premises [is] [are] taken.

2. The Council are satisfied, as respects [the] [each] private means of access to premises to be stopped up that [another reasonably convenient] [means of access to the [relevant] premises is available.] [new means of access to the [relevant] premises will be provided by the Council] [no access to the premises from the highway [in question] is reasonably required]. [Each] [The] new means of access to premises to be provided is shown on the Site Plan [along [the] [each] route] [or] [at [the] [each] location] by thin diagonal hatching and identified by a number in the Schedule and that number is placed opposite the description of the [relevant] private means of access to premises to be stopped up.]

3. In this Order:-

(a)⁹ distances are measured along the route of the relevant private means of access to premises or highway as the case may be;

(b) "the Council" means the
.....
.....Council

(c) "the Site Plan" means the Site Plan numbered
.....
marked "The
Council (Stopping up Private Means of Access to Premises at
.....)
Order 199 ." sealed with the
Common Seal of the Council and
deposited in the offices of the
Council at
.....
.....;[and]

(d) "Private means of access to premises" means a private means of access to premises authorised by this Order to be stopped up and which is identified in the said Schedule and on the Plan by a letter; [and]

[(e) "New means of access to premises" means a new means of access to premises authorised by section 129(1) of the Highways Act 1980 to be provided in connection with the stopping up of a private means of access to premises authorised by this Order.]

4. This Order shall come into force on the date on which notice that it has been confirmed is first published in accordance with Regulation 9 of the Stopping up of Accesses to Premises (Procedure) Regulations - SI 1971 No 1707, and may be cited as "The Council (Stopping up of Private Means of Access to Premises at) Order 19 ."

THE SCHEDULE

<u>Private Means of Access to Premises to be Stopped Up</u>	<u>Reference No of New Means of Access</u>
A Access from B725 Mill Road 325 metres south of its junction with Meadow Lane to Red House Farm.	1
B Access from the B725, Mill Road to The Cooperage	2

Given under the Common Seal of the Council on the day
of 199 .

The Common Seal of the
Council was hereunto affixed
in the presence of:

..... Chairman of the Council
..... Secretary to the Council

NOTES ON THE COMPLETION OF
S14 AND S124 ORDERS

1. Only if the order authorises works described in subsection (4) of this section.
2. Only if the order authorises diversion of a navigable watercourse.
3. Only if the order authorises the stopping up of a private means of access or the creation of a new means of access.
4. This paragraph should be omitted if the order contains no instance of a new access and a new highway sharing the same route.
5. Delete where not applicable.
6. When a local authority (X) which is not a highway authority (acting under an agency agreement with the local highway authority (Y) under section 101 of the Local Government Act 1972) makes a s14 or 124 Order, the following wording should be used:

"The X Council acting under an agreement pursuant to section 101 of the Local Government Act 1972 with the Y Council in exercise of the powers of the said [*] Council make this Order under etc"

where * is the generic name of the highway authority, eg "County" or so much more of its name as is necessary to differentiate it clearly from the order making, agency authority.

7. Only if there is to be a temporary highway [re-number subsequent articles if this article is omitted].
8. Only if a new highway is to be transferred, [re-number subsequent articles if the article is omitted].
9. Distances should always be precise - local authorities have a duty to ensure that all their proposals are clear and accurate, and it is no longer considered acceptable to approximate measurements given in local authority orders and schemes. All distances should be expressed in the same units of measurement which must be metric to comply with the Units of Measurement Regulation - SI 1995 No 1804.

NOTICE OF MAKING OF A SECTION 14 ORDER
(TO BE PUBLISHED IN THE LONDON GAZETTE AND AT LEAST ONE LOCAL
NEWSPAPER)

*See Notes at the end of this Notice

Highways Act 1980

The Council (.....
to Classified Road) (Side Roads) Order 19

The Council hereby give notice that
they have made, and submitted to the Secretary of State for
Transport for confirmation, an Order under Section [6] [8] 14
[and] [Section 106] [Section 108] [and] [Section 125] of the
Highways Act 1980 -

[(1)] authorising the Council to:-

-
- | | |
|-------|---|
| (a) | improve highways (including
raising, lowering or otherwise
altering), |
| (b) | stop up highways, |
| (c) | construct new highways, |
| (d) | stop up private means of access to
premises, |
| (e) | provide new means of access to
said premises, |
| [(f)] | construct a bridge over the
navigable waters of the
....., and |
| (g) | divert the navigable waters of the
.....] |

all on or in the vicinity of the route of the
classified road known as which
the Council are proposing to construct [improve]
between and
..... [and]

- [2] [to transfer certain of the above mentioned new
highways to the highway authorities respectively
specified thereto in the Order.]

Copies of the Order and of the relevant plan(s) may be inspected
free of charge at all reasonable hours from [see note A below]
..... 19 ... at the offices of the
Council at [here state further
places of deposit (if any) in the area].

ANY PERSON may not later than [see note B below]
199 .. object to the confirmation of the Order by notice to the
Secretary of State for Transport, Government Office for the North
East, Local Authority Orders Section, Wellbar House, Gallowgate,

Newcastle upon Tyne NE1 4TD stating the grounds of their objection.

..... 19 ...

Secretary to the Council.

[Note:- A Insert the date of the first publication of Notice.

B Insert a date not earlier than 43 days after the date of the last publication of the Notice.]

Further Note:-

This Form, is suitable for the larger s14 Orders where substantial numbers of side road alterations have to be covered. Where the Order comprises only a few alterations, it is recommended to state the general effect of the Order with more precision. In such cases the main part of the first paragraph of the Notice might read as follows:-

"for authorising the Council -

- (a) to carry out improvements to [here name the highway(s)],
- (b) to stop up lengths of [here name the highway(s)],
- (c) to construct new highways [describe briefly or state "to take place of the highway(s) stopped up", if this is the case],
- (d) to stop up private means of access to [name/address of premises], and
- (e) to provide new means of access to said premises,

all on or in the vicinity of the route of the classified road which the Council are proposing to construct [improve] between and"

(To be published in at least one local newspaper)

HIGHWAYS ACT 1980

THE COUNCIL (STOPPING UP OF
PRIVATE MEANS OF ACCESS TO PREMISES AT
.....) ORDER 199

THE [UPPER CASE] COUNCIL ("the
Council")⁶ hereby give notice that they have made an Order under
section 124 of the Highways Act 1980 authorising the Council to
stop up private means of access to premises from the [no. and
name of highway]..... to [name and location of
premises]..... because they consider that
the means of access [is][are] likely to [cause danger to] [and]
[interfere unreasonably with] traffic on that highway.

COPIES of the Order and of the plan referred to therein (such
plan showing the private means of access to be stopped up [and
[the route(s) of] the new means of access to [the relevant]
premises to be provided by the Council]) may be inspected free
of charge at all reasonable hours from [date of publication of
this notice in a local newspaper] 19... at
[address in the locality of the premises]

.....
ANY PERSON may, not later than [a date at least 29 days after
publication of this notice] 199 , object to the
making of the Order by notice in writing to the [Order making
authority] Council
at stating the grounds of
objection.

NOTICE OF CONFIRMATION OF
A SECTION 124 ORDER

FORM F

HIGHWAYS ACT 1980

THE COUNCIL (STOPPING UP OF PRIVATE
MEANS OF ACCESS TO PREMISES AT
.....) ORDER 199 .

THE [UPPER CASE] COUNCIL ("the
Council")⁶ hereby give notice that they have, under section 124
of the Highways Act 1980, confirmed [with modifications] the
above named order, the effect of which is to authorise the
Council to stop up private means of access to premises from the
[no. and name of highway] to [name and
location of premises]

COPIES of the confirmed Order and of the plan referred to therein
may be inspected free of charge at all reasonable hours at
[address in the locality of the premises]
.....
.....

ANY PERSON aggrieved by the order and desiring to question the
validity thereof, or of any provision contained therein, on the
ground that it is not within the powers of the Highways Act 1980
or on the ground that any requirement of that Act or of any
regulations made thereunder has not been complied within relation
to the order, may, within 6 weeks of the
19 .. [insert the date of the publication of the notice of
making] apply to the High Court for the suspension or quashing
of the order or of any provision contained therein.

..... 199

Secretary to the Council

The Section 14 Order

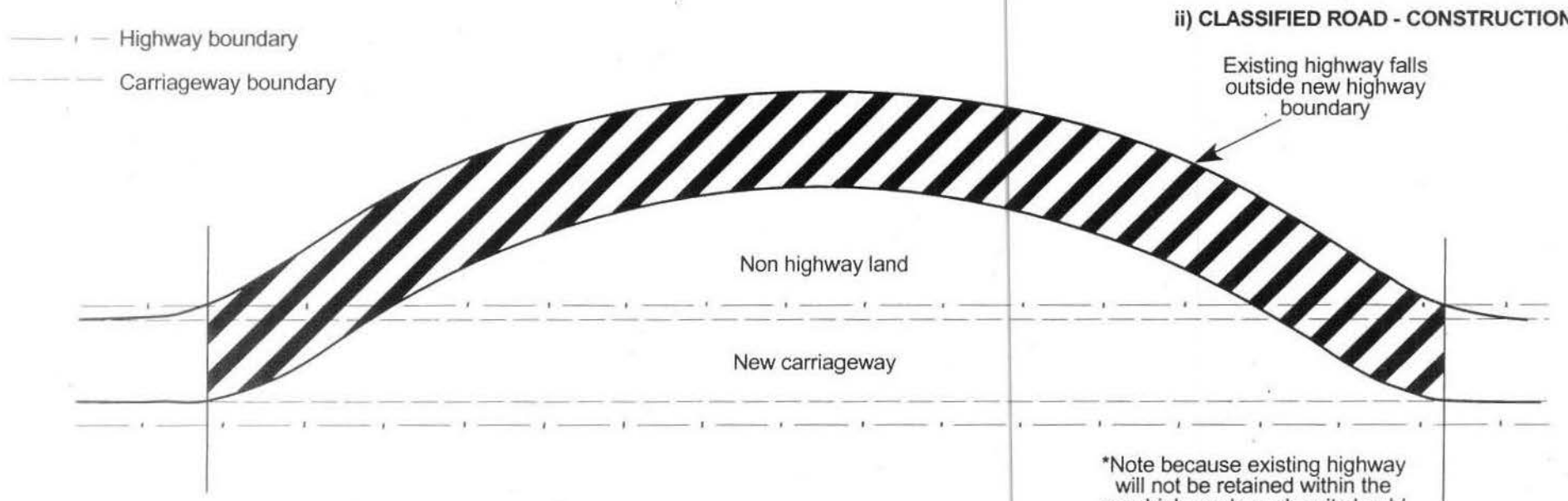
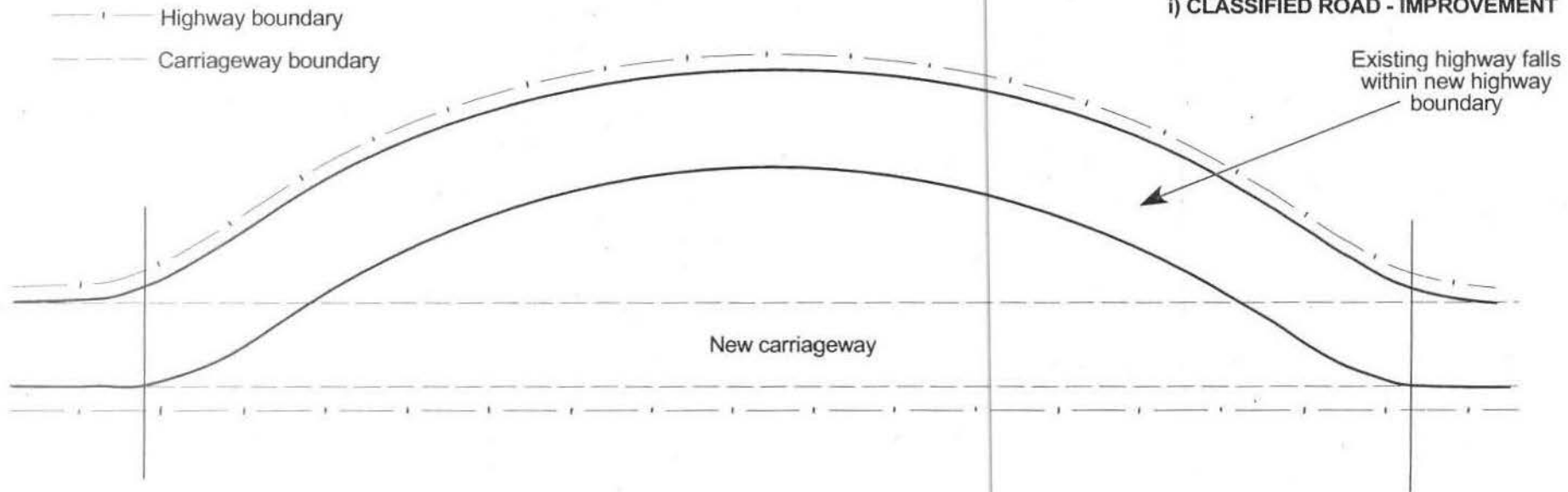
- Documentation required:

When submitting Side Roads Orders for confirmation, made under section 14 (and 125) of the Act in relation to classified roads (or under sections 18 and 125 in relation to Special Roads) the following documents are required. (It should be noted that the processing of an Order application will not normally begin until all relevant documentation has been received):-

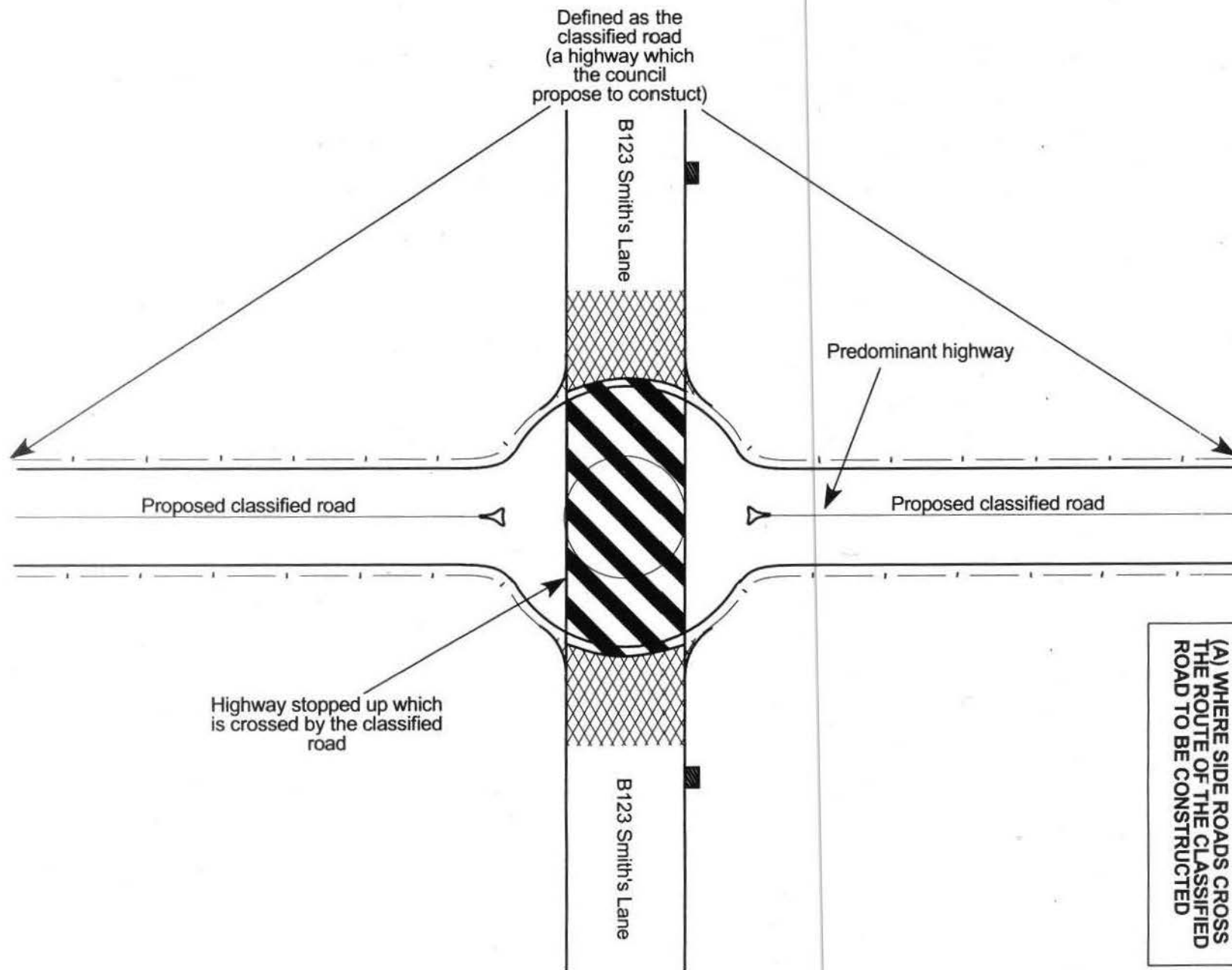
- (i) 2 SEALED ORDERS AND PLAN/S;
- (ii) 4 COPIES OF SEALED ORDER AND PLAN/S;
- (iii) typed copy of the PUBLIC NOTICE of making of the order, which will be published in the Local Newspaper/s and the London Gazette;
- (iv) a copy of each PRESS CUTTING OF THE PUBLIC NOTICE of making of the Order from Local Newspaper/s used and the London Gazette. Cuttings should identify clearly the names of the newspapers in which they were published and the date/s of publication;
- (v) 2 copies of Statement of Reasons FOR MAKING THE ORDER;
- (vi) a copy of the COUNCIL'S RESOLUTION TO MAKE THE ORDER;
- (vii) A CERTIFICATE/STATEMENT CONFIRMING THE STATUTORY REQUIREMENTS in relation to the publication and service of notice of the Order - as laid down in Part 1 of Schedule 1 of the Highways Act 1980 - have been complied with;
- (viii) a detailed ENGINEERING DRAWING of the proposals contained in the Order (minimum scale 1:2500, 1:1250 preferred in complex cases);
- (ix) where the Order is made in relation to a proposed new classified road, classification of the proposed highway should be sought from the DOT Regional Government Office in the normal way. CONFIRMATION THAT CLASSIFICATION OF THE PROPOSED HIGHWAY HAS BEEN SECURED is a pre-requisite to the making of an Order under s14;
- (x) where no Compulsory Purchase Order has been submitted, either a statement that such an Order will be submitted or details of the authority which the Council has obtained to gain entry onto the land needed for the classified road and the associated highway works;
- (xi) statement on the position of planning permission if not included in Statement of Reasons.

ORDERS UNDER SECTION 14 & 124 OF THE HIGHWAYS ACT 1980

Existing highway layout where it is proposed to be altered.	Highway Boundary Carriageway Carriageway Highway Boundary	
Classified Road (Emboldened)	Highway Boundary Carriageway Carriageway Highway Boundary	
Highway to be stopped up (Zebra hatching)	Highway Boundary Carriageway Carriageway Highway Boundary	
Highway to be improved (Cross Hatching)	Highway Boundary Carriageway Carriageway Highway Boundary	
New Highway (Bold black centre-line and stipple across full width of carriageway including footways of all purpose highway or usable width of other highways).	Highway Boundary Carriageway Carriageway Highway Boundary	
Private Means Access to be stopped (Solid black band)		
New Means of Access (Diagonal Hatching)		
Watercourse to be diverted (Outline)		
New Watercourse (Outline)		

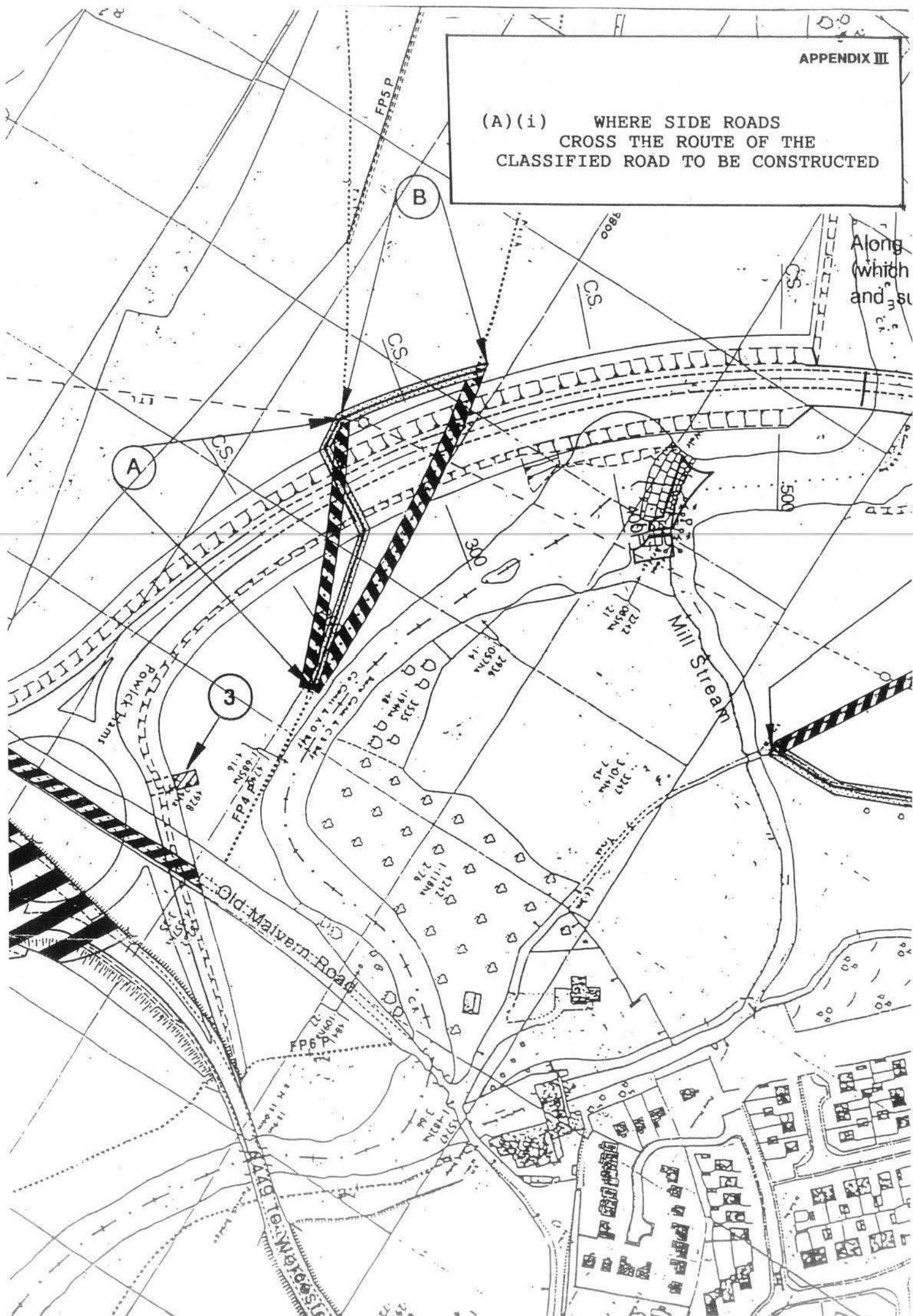


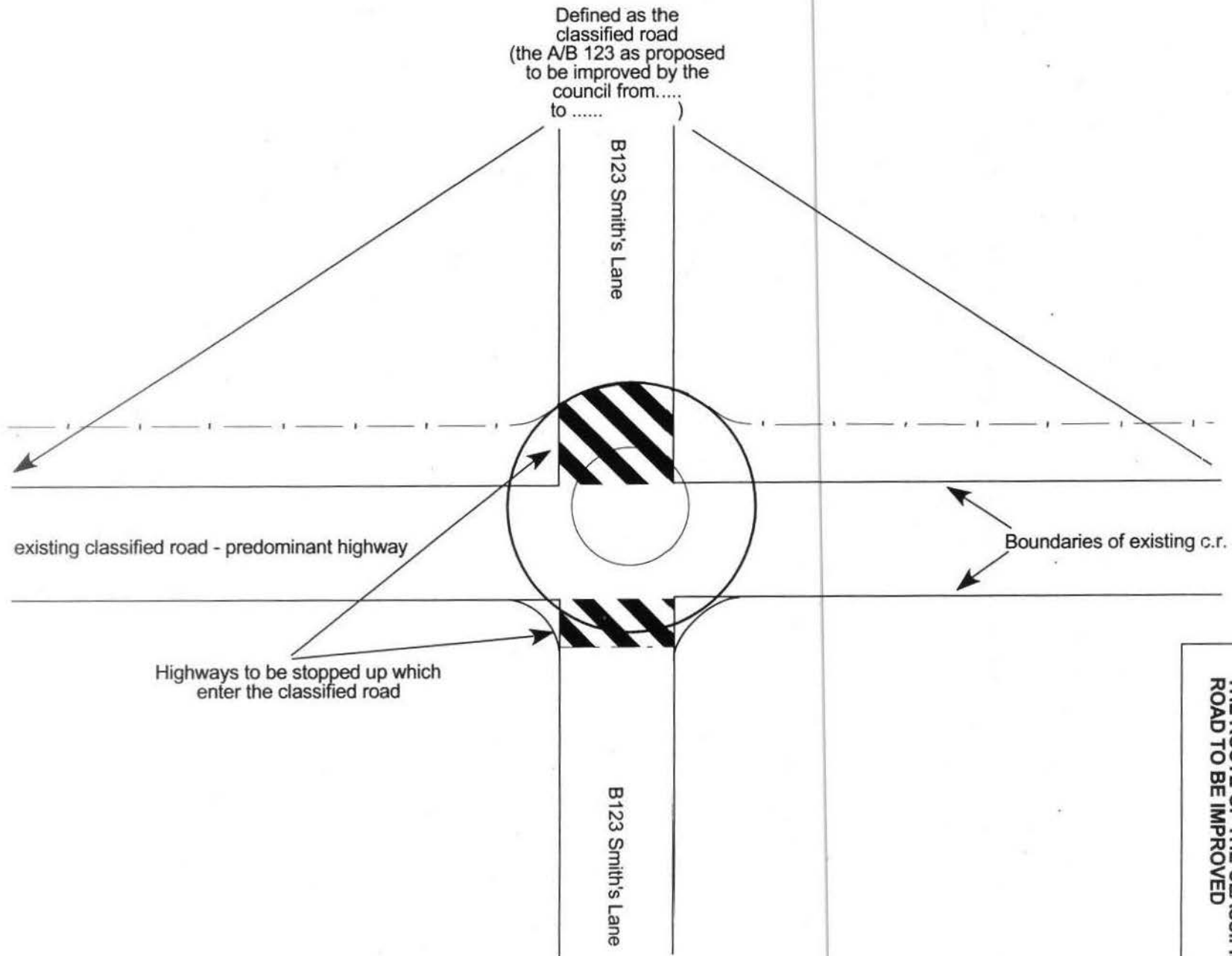
*Note because existing highway will not be retained within the new highway boundary it should be stopped up from its first point of departure from route of new highway.



APPENDIX III
(A) WHERE SIDE ROADS CROSS
THE ROUTE OF THE CLASSIFIED
ROAD TO BE CONSTRUCTED

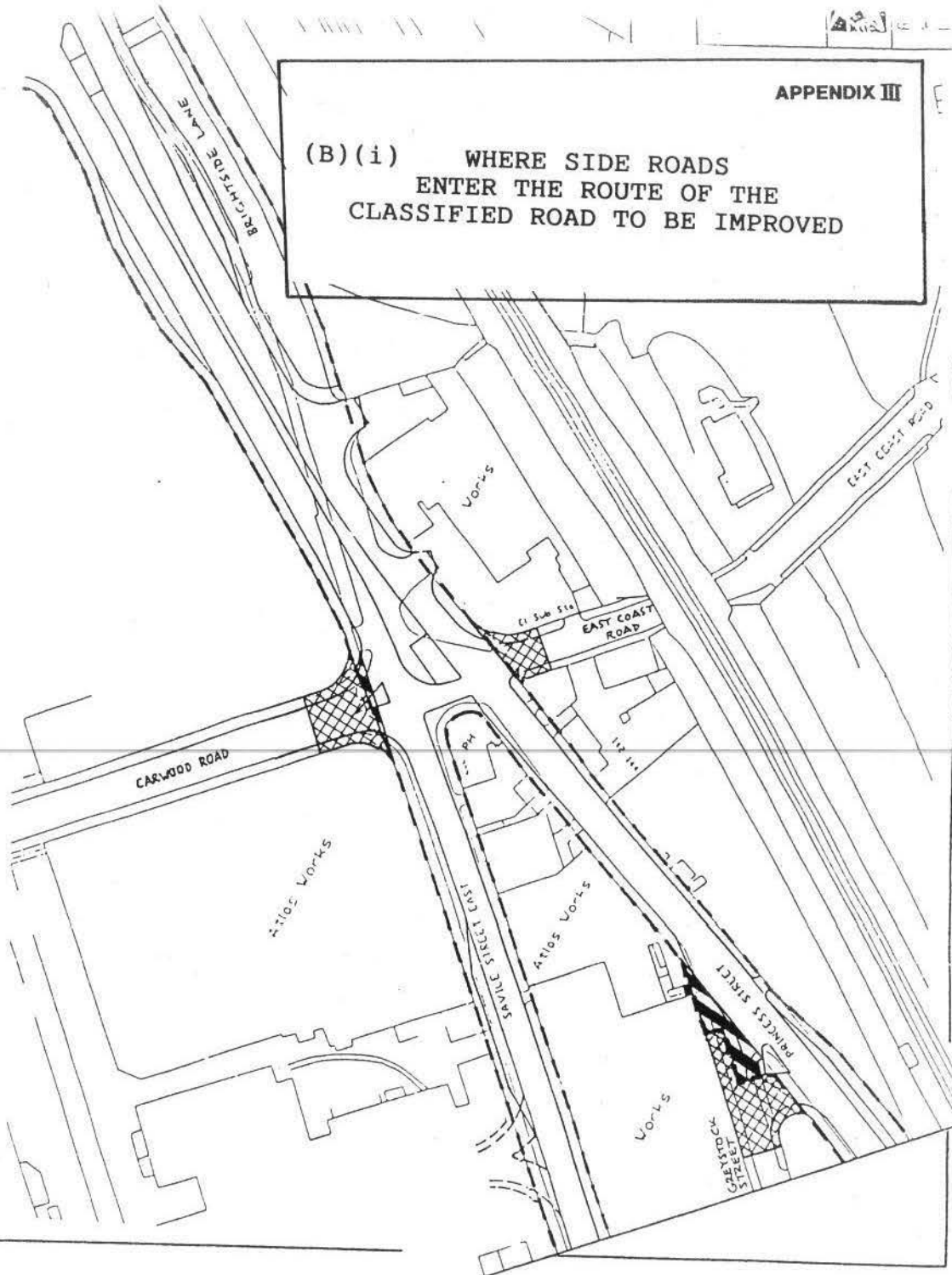
(A)(i) WHERE SIDE ROADS
CROSS THE ROUTE OF THE
CLASSIFIED ROAD TO BE CONSTRUCTED





APPENDIX III
(B) WHERE SIDE ROADS ENTER
THE ROUTE OF THE CLASSIFIED
ROAD TO BE IMPROVED

SAULS NORTH SITE



KEY

The new classified road

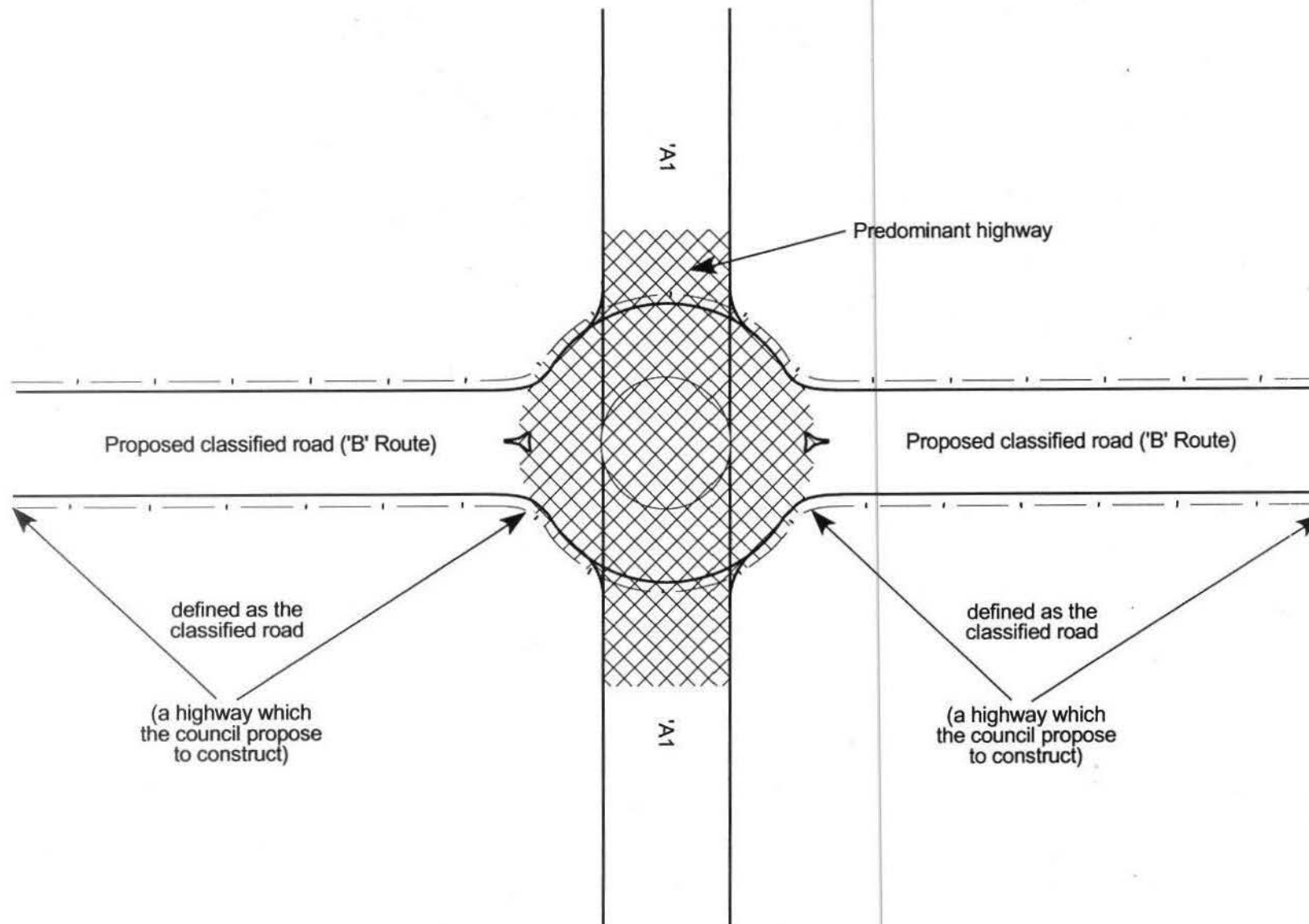
Highway to be improved

Highway to be stopped up

New highway

Private means of access
to be stopped up

New means of access



APPENDIX III
(C) WHERE SIDE ROADS
DISSECTING THE ROUTE OF
THE CLASSIFIED ROAD IS
TO BE IMPROVED

(D) STOPPING UP OF HIGHWAY
ENTERING SIDE ROAD
NEW OR IMPROVED

NEWCROSS HOSPITAL
GROUNDS

THE 1
033 WYRLEY AN

TOWING PATH

Post

Post

Post

NEWCROSS HOSPITAL
ACCESS

322

320

312

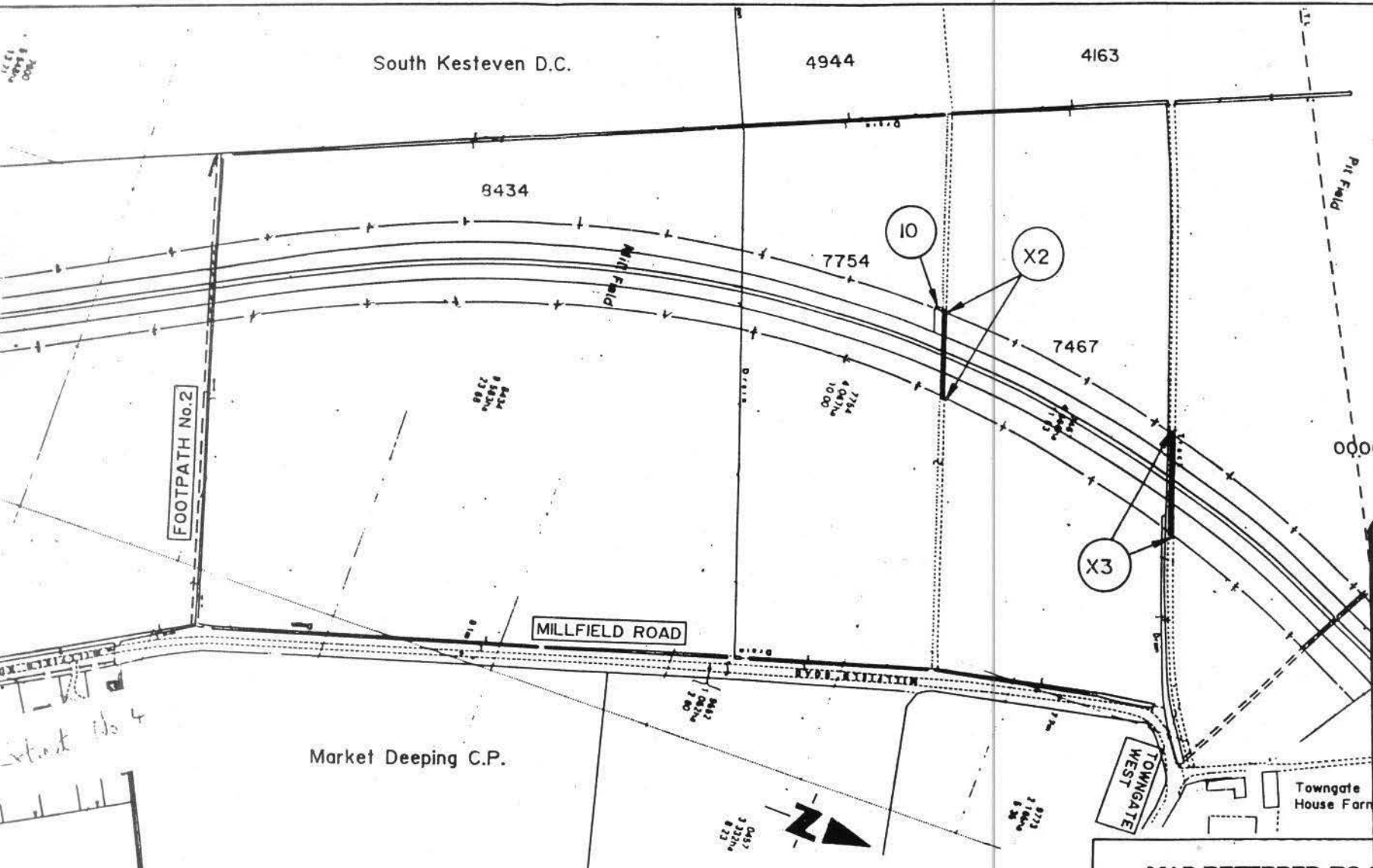
310

321

99

93

CORRIDOR



(E) STOPPING UP OF PMAS CROSSED
BY THE CLASSIFIED ROAD

APPENDIX III

MAP REFERRED TO
COUNTY COUNCIL A15
BYPASS (SIDE ROAD)

SITE PLAN - 2 of 5

SCALE 1 : 2500

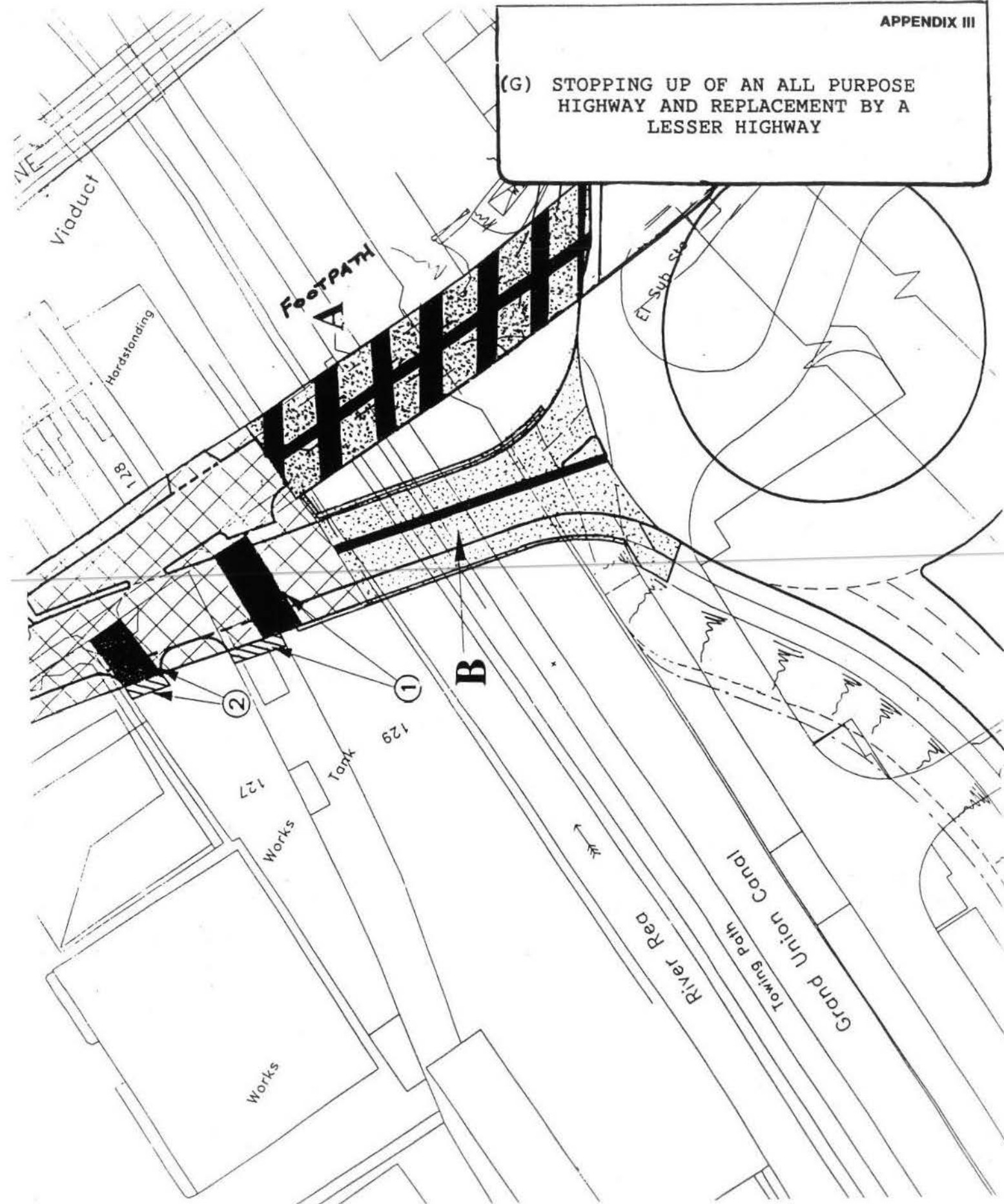
LINCOLNSHIRE COUNTY COUNCIL
County Offices Lincoln
Reproduced from [Blank] upon the O.S. Map
with the sanction of the Controller of H.M.
Stationery Office
CROWN COPYRIGHT RESERVED
Date 11.74

O.S. Plan Nos.
TF 1210-1310 1983
1209-1309 1974

(F) STOPPING UP OF PMAS WHICH FALL WITHIN BOUNDARY OF THE CLASSIFIED ROAD AS IMPROVED



(G) STOPPING UP OF AN ALL PURPOSE
HIGHWAY AND REPLACEMENT BY A
LESSER HIGHWAY



CIRCULAR No. 2/97

Dated June 1997 and issued by the Department of Transport

Notes on the Preparation, Drafting and Submission of Compulsory Purchase Orders for Highway Schemes and Car Parks for which the Secretary of State for Transport is the Confirming Authority.

1. The purpose of this circular is to re-state and up-date the contents of the Memorandum attached to Department of Transport Circular Roads 1/81, which is hereby cancelled. **6-1541**
2. The annexed Notes take account of the Highways Act 1980 and the Acquisition of Land Act 1981. They are intended to supplement the general guidance given in Department of the Environment Circular 14/94—Compulsory Purchase Orders: Procedures—by dealing particularly with the questions which arise, or are likely to arise, in the preparation of orders for the compulsory acquisition of land for highways and car parks.
3. It is emphasised that the Notes are concerned solely with matters directly related to highways and car parks. Thus, all references to compulsory purchase orders should be taken as referring to such orders made by local authorities under the powers conferred upon them in respect of those two items and related matters.
4. Further advice and guidance on specific, complex and/or unusual drafting points can be obtained from the Department of Transport, Local Authority Orders, Wellbar House, Gallowgate, Newcastle upon Tyne NE1 4TD. It is only expected, however, that advice will be needed in such circumstances. The Department cannot otherwise offer a facility for the routine clearance of drafts, in which local highway authorities should have access to their own legal advice. Any advice or guidance which is given is without prejudice to the Secretary of State for Transport's consideration of the made orders when submitted for confirmation. *Those authorities who require such advice should make due allowance in planning the timetable for their scheme and they should also be aware that it is for them to decide whether or not to accept the advice on drafts which has been given, informally, by the Department.*
5. It is not envisaged that the implementation of the guidance in this circular will entail any additional expenditure or manpower.

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- III. Major Road Schemes—
 - A. Specimen draft CPO
 - B. Notes for use in drafting the purposes of a CPO
- IV. Minimum time allowance for Department of Transport statutory processes.
- V. Documents to be submitted with a made Compulsory Purchase Order.

Preamble

1. A local authority's powers to acquire land compulsorily to construct or improve highways are all contained in the Highways Act 1980 ("the Act"). But the powers to acquire land for the provision of off street car parks are contained in the Road Traffic Regulation Act 1984.

A. Preliminary Steps to the Making and Confirmation of Compulsory Purchase Orders

i. Obtaining Planning Permission

2. There is no statutory requirement for planning permission to precede the confirmation of a CPO made for the purposes of the Act. Nevertheless the Secretary of State for Transport would always wish to be sure that a scheme for which he was authorising the compulsory acquisition of land would go forward as proposed in the order. Consequently it is his practice not to confirm a CPO until he is satisfied that the planning permission aspect of the scheme, to which the order relates, has been granted.

3. Where the scheme consists of works required for, or incidental to, the improvement of a highway on land outside, but adjoining, the boundary of the highway, planning permission is granted by the Town and Country Planning (General Permitted Development) Order S.I. 1995 No. 418 (Part 13 of Schedule 2 to the Order).

4. In other highway cases (except where the work envisaged will not be development at all, see section 55(2)(b) of the Town and Country Planning Act 1990 in which event the need for a CPO would not appear evident) specific granting of planning permission will be necessary; but where the local highway authority and the local planning authority are the same body, the provisions of Part II of the Town and Country Planning Act 1990 apply and there may be deemed planning permission.

5. Where the route of a new highway proposed by the local highway authority differs from that shown in the current adopted development plan, or is not shown at all, the local planning authority will have to follow the procedure set out in the Town and Country Planning (Development Plans and Consultation) Directions 1992; found in Annexes 2 and 3 to DOE Circular 19/92. Such a proposal may be called in by the Secretary of State for the Environment for his own decision following inquiry.

6. Where a proposed new highway is contrary to a provision in a formally adopted or approved development plan or local plan the same procedure will apply.

7. The planning procedure to be followed regarding the provision of off-street parking places for vehicles is the same as that in respect of new highway proposals referred to above.

ii. Obtaining Listed Building Consent

8. Under section 8 of the Planning (Listed Building and Conservation Areas) Act 1990 listed building consent must be obtained from the local planning authority or the Secretary of State for the Environment for the demolition of a building statutorily listed as being of special architectural or historic interest. The need to obtain listed building consent applies to demolitions of all listed buildings including those where the subsequent development is permitted under the General Permitted Development Order 1995 or where the authority have deemed planning permission. The Secretary of State for Transport will not wish to confirm a CPO affecting a listed building unless listed building consent has been given. The necessary consent should be applied for as soon as it becomes apparent that a CPO will affect a listed building.

iii. Buildings in a Conservation Area

9. Any building in a conservation area (except those exempted by a direction under section 75 of the Planning (Listed Buildings and Conservation Areas) Act 1990), although not a listed building, requires conservation area consent for its demolition.

10. The Secretary of State for Transport will not wish to confirm a CPO affecting a building in a conservation area unless conservation area consent has been given. As soon as it becomes apparent that a CPO will affect such a building the local authority should apply for the necessary

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consent. The procedure to be followed is set out in DOE Circular 14/94 "Compulsory Purchase Orders Procedures" (Appendix H).

iv. Definition of "New Construction"

11. In order to enable the purposes of the acquisition to be properly stated in the CPO itself, it is frequently important to determine whether the scheme involves the construction of a new highway or is a scheme for the improvement of an existing highway. In many cases the distinction is obvious but cases do arise (particularly where the scheme is a scheme for the significant realignment of an existing highway) in which it may be difficult to ascertain whether the scheme does or does not involve the construction of a new length or new lengths of highway.

12. It is considered that the proper criterion to be applied in all cases is that indicated in the wording of the description in Part 13 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995; that is to say, that where all the projected works are to be carried out on land outside but adjoining the boundary of an existing highway the case is one involving the improvement of an existing highway only, but where works are to be carried out on other land, so that, when the scheme is complete, there will be non-highway land between the projected works and the existing highway, then on that length the works should be regarded as works for the construction of a new highway.

13. Where the construction of a new length of highway is involved the question of planning permission should be dealt with as indicated in paragraphs 3 to 7 above. Similarly, a reference to the construction of a new highway should appear in the statement of purposes.

v. Necessity for "Certificates" or "Consents" in Certain Circumstances

14. It should be remembered that where common, town or village green, open space or fuel (turbary) or field garden allotment land, and/or rights over such land, are included in a CPO the order will be subject to Special Parliamentary Procedure unless a certificate is given by the Secretary of State for the Environment under section 19 of and/or paragraph 6 of Schedule 3 to the Acquisition of Land Act 1981. Applications for certificates should be made to the Secretary of State for the Environment (having regard to the advice in DOE Circular 14/94, Appendix G—Special Kinds of Land) as follows:—

- (1) Common Land, Town or Village Greens.
The Department of the Environment
Countryside Division (CYD(4))
Tollgate House
Houlton Street
Bristol BS1 9DJ
- (2) Open Space Land.
the Planning Branch of the appropriate Government Office for the Region
- (3) Fuel or Field Garden Allotments
Regeneration Directorate (RD1(4))
Department of the Environment
Eland House
Brassenden Place
Victoria Street
London SW1E 5DU

15. In respect of any one common or open space a certificate will not be given for more than one of the alternatives specified in section 19 and/or paragraph 6 of Schedule 3 to the 1981 Act. The significance of this is that if more than one plot in a CPO affects a single common or open space (as regards acquisition of title or rights or both) and the total area of the plots exceeds 209 square metres (250 square yards):

- (a) for new road construction, even if one or more of the plots is individually within the 209 square metres (250 square yards) limit, or
 - (b) for different purposes (new road construction and road widening or drainage)
- it will be necessary to give land in exchange for all of them if a certificate is to be secured.

16. Where it appears that land is or may be a scheduled ancient monument, or forms the site of a scheduled ancient monument, the written consent of the Secretary of State for National Heritage, under section 2 of the Ancient Monuments and Archaeological Areas Act 1979, is required before any works take place. (Relevant definitions are contained in section 61(1) of that Act). At an early stage and with sufficient details to identify the site, acquiring authorities should consult in the first instance English Heritage or the County Archaeologist according to the circumstances shown below:

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- (1) in respect of a *scheduled* ancient monument—English Heritage, 2/4 Cockspur Street, London SW1Y 5DH or
- (2) in respect of an unscheduled ancient monument or other object of archaeological interest—the County Archaeologist.

This approach need not delay other action on the order or its submission for confirmation, but the authority should refer to it in the letter covering the submission.

17. Section 17 of the Acquisition of Land Act 1981 removes the necessity for a compulsory purchase order which includes land acquired by a statutory undertaker for the purposes of their undertaking or is the property of a local authority to be subject to Special Parliamentary Procedure where there is an unwithdrawn objection from such statutory undertaker or local authority. However, section 16 of the 1981 Act may apply where an undertaker makes a representation, within the objection period, to the appropriate Minister. Where a valid section 16 representation is not withdrawn, the land may not be acquired compulsorily under powers in the Highways Act 1980 unless that Minister gives a certificate, in the relevant terms. [If a new right is being acquired, paragraph 3 of Schedule 3 to the 1981 Act will apply.] See Part I of Appendix G to DOE Circular 14/94.

B. Land Included in a Compulsory Purchase Order

i. Extent Justified

18. The Secretary of State for Transport will require to be satisfied in every case that the land included in a CPO can reasonably be regarded as required for the purposes of the acquisition as stated in the order. Where the scheme is one for the improvement or construction of a highway, this will normally mean that the only land to which the CPO should relate will be the land falling within the highway as improved or newly constructed. If land outside these limits is required for use in connection with the improvement or construction of a highway (e.g. as working space), this will need to be made clear and the power in section 240(2)(a) cited.

19. Where the boundary of the widening or new construction cuts through a building, notwithstanding the powers of an owner to exercise his right under section 8 of the Compulsory Purchase Act 1965 to require the highway authority to buy the entire building or in a case where the provisions of that section may be inapplicable, it is usually appropriate to acquire the site of the entire building in reliance on section 240(2)(a). This certainly should be done in cases where the demolition of part of a building would cause the rest of the building to collapse or leave a precariously poised or dangerous structure. Where, however, the highway scheme involves the acquisition of significant areas of land which will lie outside the highway boundary, in a case where section 240(2)(a) is inapplicable, use should be made of the powers given by section 239(6) as well as those given by section 239(1) or (3) of the Act; and, as appropriate, section 246(1).

ii. Special Category Land

20. Difficulties can arise where it is necessary for a local highway authority to acquire, for the purposes of a highway scheme or ancillary works, land in one of the following special categories:

- (a) consecrated land and burial grounds;
- (b) common, town or village green, open space, fuel (turbary) or field garden allotment land which is subject to special statutory provisions (e.g. a provision in a local Act that the land must not be enclosed);
- (c) National Trust land.

21. It is not practicable in a general circular of this nature to explain in any detail the complexities of the law in relation to these matters but the following paragraphs may be helpful as a general guide. (Further advice is given in Appendices E, G and J to DOE Circular 14/94).

22. The expression "*burial ground*" covers any churchyard, cemetery or other ground, whether consecrated or not, and whether in use or not, which has at any time been set aside for interment. A *disused burial ground may be open space* (a definition of "open space" is to be found in section 20 of the Open Spaces Act 1906). Burial grounds belonging to local councils as burial authorities are not, as such, consecrated land (although a part of such ground may in fact have been consecrated—see below) nor are those provided by religious denominations other than the Church of England.

23. "Consecrated land" is land consecrated by a Bishop of the Church of England and will normally cover the church, its site and curtilage, and the churchyard (together, possibly, with any land which may have been added). Consecrated land is subject to ecclesiastical law and, while as such it is not exempt from compulsory acquisition, it cannot lawfully be used for secular purposes unless it is freed from such restrictions by:

[7]–10201

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- (a) a Church of England Measure; or
- (b) the application of the provisions of sections 238–240 of the Town and Country Planning Act 1990; or
- (c) the grant by the ecclesiastical court of a faculty to use the land for secular purposes.

24. In practice, course (a) above is unlikely to prove of value in connection with the usually small portions of land required for highway schemes. Normally, course (c) might be the simplest one to follow, an application being made to the Chancellor of the Diocese for a faculty to use the land for secular purposes which, if granted, will generally give the highway authority the necessary powers to carry out the works for highway schemes. It should not be necessary to include, in a CPO, land for which a faculty has been granted. However, it should be borne in mind that the Diocesan Chancellor is not obliged to grant a faculty and other problems may arise—e.g. it would not be possible to erect buildings, and the transference of human remains may require a Home Office licence under section 25 of the Burial Act 1857. Sections 238 and 239 of the Town and Country Planning Act 1990, (b) in paragraph 23 above, make very adequate provision for solving the problems posed by ecclesiastical law and statute on the use of burial grounds whether consecrated or not. These provisions are applicable to CPOs made by local highway authorities under powers given to them in the Highways Act 1980 and the Road Traffic Regulation Act 1984 by virtue of sections 239(1) and 240(3) of the Town and Country Planning Act 1990. Where these provisions apply in relation to burial grounds a licence under section 25 of the Burial Act 1857 is not required, but it is necessary to comply with the requirements of the Town and Country Planning (Churches, Places of Religious Worship and Burial Grounds) Regulations S.I. 1950 No. 792. (See also Faculty Jurisdiction Measure 1964; Care of Churches and Ecclesiastical Jurisdiction Measure 1991.) The Home Office Coroners Section, Constitutional and Community Policy Directorate, Queen Anne's Gate, London SW1H 9AT (Tel: 0171-273-2888/3574) can provide further advice in respect of burial land and the removal or disturbance of human remains.

25. In a case where a CPO includes land which forms part of any burial ground and objection is made to the order by relatives of persons buried there, a local inquiry or hearing has to be held in connection with the order even if the objectors cannot show that they have any legal interest in or title to the graves.

26. If a CPO includes the acquisition of rights over any part of a *common, town or village green, open space (which see paragraph 22 above, may include a disused burial ground) or fuel (turbary) or field garden allotment* the order will be subject to special parliamentary procedure unless a certificate has been granted by the Secretary of State for the Environment under the provisions of section 19 of and/or paragraph 6 of Schedule 3 to the Acquisition of Land Act 1981. (See also paragraph 14 above.) But if the order includes special category land held inalienably by the National Trust and the Trust maintain an objection to the order, then the order will be subject to special parliamentary procedure under section 18 of the Acquisition of Land Act 1981 whatever certificate may or may not have been given under section 19.

27. Where compulsory acquisition results in legal inclosure, consent will be needed under section 22 of the Commons Act 1899. The Secretary of State is advised that it means legal inclosure, i.e. the extinguishment of commons rights, rather than the physical inclosure of land to which section 194 of the Law of Property Act 1925 applies. Where exchange land is to be given, consent to the extinguishment of commons rights over the land acquired will still be necessary notwithstanding that the exchange land will become subject to the like rights. It follows that consent under section 22 is only needed where the common rights are to be extinguished, either upon a grant made under the authority of one of the scheduled Acts which has that effect, or by virtue of a compulsory acquisition. Where it is not intended to extinguish the common rights, but it is intended to undertake works to which section 194 of the Law of Property Act 1925 applies, the need for the Secretary of State's consent under that section should be considered.

28. From the foregoing paragraphs local highway authorities will appreciate the need to identify any problems relating to special category land in the very early stages of formulating highway scheme proposals so that they can be resolved in good time. Where a CPO is subject to special parliamentary procedure it is estimated that a minimum period of 13 weeks should be added to the CPO timetable. It should also be borne in mind that special parliamentary procedure can subject the order *as a whole* to re-scrutiny and is not confined to a particular part of the order.

C. Drafting of the Order

i. The Form of the Order

29. The form used should always be as prescribed by the requirements of the current issue of the Compulsory Purchase of Land Regulations, ("the Regulations", currently S.I. 1994 No.

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2145) including after the Schedule or Schedules where necessary, details of land falling within special categories. In drafting the order the Notes to Forms 1–3 in the Schedule to the Regulations are part of the instrument and must be complied with, subject to the advice in Section D below.

ii. The Enabling Powers

30. The powers on which the acquiring authority rely in making a CPO should be correctly stated. Current legal advice suggests that, for CPOs made under the Act, it is not necessary for the exact powers of acquisition to be cited, given that these are specific to the relevant highway purpose. However the Secretary of State considers that it is best practice to cite in the order the powers upon which the local highway authority propose to rely (see section K of this Annex). Failure to do so in itself however will not render the order incapable of confirmation.

31. It is considered sufficient to cite a particular section of the Act and it is not considered necessary to elaborate that citation by including references to particular subsections. While the inclusion of a subsection is not wrong, experience has proved that it is easy to cite a wrong subsection when drafting an order.

32. At Appendix I to this Annex is a list of the main sections of the Highways Act 1980 and the Road Traffic Regulation Act 1984 which will need to be cited in CPOs for highway or off-street car parking schemes.

33. At Schedule 18 to the Highways Act 1980 is a Table showing the distance limits applicable to compulsory acquisition of land by local authorities in the exercise of highway land acquisition powers.

34. When a district authority (acting under an agreement with the county council under section 101 of the Local Government Act 1972) makes a highways CPO the following words should be used:—

“The X [District] [Borough] Council acting under an agreement with the Y County Council pursuant to section 101 of the Local Government Act 1972 hereby makes the following Order” (or section 8 of the Highways Act 1980 where agreement is between local highway authorities).

iii. The Statement of Purposes

35. Note (e) to Forms 1–3 in the Schedule to the Regulations requires that the purposes be described in precise terms and, where practicable, using the words of the relevant Act. It is impossible to over-emphasise the importance of stating the purposes of the acquisition fully, clearly and without error. The Secretary of State for Transport is advised that his power to modify on confirmation would not normally justify his making any alteration in the statement of purposes actually set out in the order, to correct a mistake in that statement. *Therefore any serious error or inadequacy in the statement of purposes is likely to result in a refusal of confirmation on this around alone.* (See section K of this Annex).

36. To assist in attaining clarity and accuracy in the statement of purposes the following suggestions are made:—

(1) **Construction as well as improvement**

If construction of a new length of highway, and an improvement of an existing highway, are involved, both purposes should be clearly stated.

(2) **Ancillary roads, etc**

Where construction of a new highway involves construction of ancillary roads to connect the new road with the existing highway system, or related improvements to existing roads, this should be made clear.

(3) **Highways to be improved**

These should be named or briefly described.

(4) **New lengths of highway**

These should be briefly described (e.g. “a new highway to bypass (name of village)”, “a new highway from High Street to John Street in the said District/Borough”, etc).

(5) **Land outside the highway**

If any significant areas of land outside the proposed boundaries of the highway are to be acquired and the CPO is to be made in reliance on section 239(6) of the Act, the statement of purposes should include a reference to land adjoining or adjacent to the highway, as well as to the frontages to the highway.

(6) **Associated schemes/orders**

Where there is an associated special roads scheme and/or side roads order the purposes need not be elaborate; they can be described in broad terms and as being in pursuance of the made scheme and/or order.

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(7) Car parks

Where a proposal includes provision of a parking place for vehicles and also provision of a means of access to the rear of premises backing on to the proposed parking place, this must be stated and the powers in the Road Traffic Regulation Act 1984 cited. Where part of the land in a car park CPO is required for the provision of a means of entry to and exit from the parking place this must be clear in the description of the purposes (see the wording of section 32(1) of the Road Traffic Regulation Act 1984).

(8) Acquisition of rights

Where it is proposed to acquire rights over land for various purposes (including drainage) these should be described. Some examples are given in the Model CPO Schedules at Appendix IIB to these notes.

37. The specimen form at Appendix III A and the Notes at Appendix III B may be of help in drafting the more complex cases.

iv. Place for the Deposit of Maps

38. The part of the prescribed form which refers to the deposit of the maps in the offices of the confirming authority should be completed as follows: "the offices of the Secretary of State for Transport" (the Regulations do not require the address to be inserted). The confirming authority is the Secretary of State for Transport *not* the Department of Transport.

D. Completion of the Schedule

i. The Form of the Schedule

39. The layout of the Schedule or Schedules is prescribed by the Regulations and must be adhered to in all cases. (See Appendix IIA).

ii. Quantity of Land Scheduled

40. The precise area of each plot must be stated. All distances and areas should be expressed in the same basic unit of measurement, which must be metric in order to comply with the Units of Measurement Regulations S.I. 1995 No. 1804.

41. In the case of rights to be acquired under sections 250 to 252 of the Act, the land affected by the right needs to be precisely described in the Schedule or Schedules and identified on the map. It is important to include an adequate area in the CPO as being land affected by the right including, for example, a sufficient width of land to enable construction equipment etc to be taken on to the land and used on the site of the works for which the right is being acquired. (Paragraph 53 below refers to the use of separate colouring or different symbols on the plan to denote "rights" plots as distinct from "title" plots and the separate colours or symbols used should of course be described, where appropriate, in the order. See Notes (f) and (j) to Forms 1–3 in the Schedule to the Regulations.)

iii. Description of the Land Scheduled

42. Each plot should be described in terms readily understood by the layman and it is particularly important that local people can identify the land described. The Regulations require that the description must contain sufficient detail to tell the reader approximately where the land is situated without reference to the map. Simple descriptions in ordinary language are therefore preferred, where the land is agricultural land it should be described as "pasture land", "arable land", "woodland", etc as applicable. Where the land is in an urban area, it should be described as "part of front garden to the dwelling house No. . . .", "dwelling house No. . . . together with front and back gardens thereto" etc. Where new rights are to be acquired (see paragraph 36(8) above and Appendix IIB) they should be described in sufficient detail to give a reasonably precise indication of the nature, extent and situation of the proposed acquisition. A right to maintain should be included wherever appropriate, e.g. a right to construct a bridge over land or to lay a drain in land should be described as "a right to construct and maintain . . ." or "a right to lay and maintain . . .".

43. Where the authority themselves own any interest in the land, or an interest is owned by the Crown or a Government Department that land should be described in the Schedule as "all interests in [specify the land] except interests owned by [the acquiring authority or Crown or named Government Department]". The other columns of the Schedule should be completed appropriately (see part iv below). Where the land is included in the CPO in pursuance of section

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260 of the Act, however, the acquiring authority should not, of course, exclude their own interest in the land.

44. Where the description includes a reference to ordnance survey field numbers, it should also state or refer to the sheet numbers of the ordnance survey maps on which these field numbers appear, and also quote the edition of the map. Where O.S. field numbers are referred to in the Schedule they should also be included in the CPO map.

45. Particular care should be taken to ensure that when compass points are quoted to describe the situation of land they should be as precise as possible.

iv. Scheduled Interests

46. The names of the owners, lessees and occupiers should be shown so as to accord with the names of the persons upon whom personal notices are served. The following may be helpful in connection with the service of the notices and the compilation of the CPO Schedule—

- | | |
|--|---|
| (1) A private individual: | That individual, at the last known address unless they have specifically furnished an address for service. (Where the individual is a "Tenant for Life" this description <i>must not</i> be included in the notice). |
| (2) Two or more joint owners: | Each of the joint owners (include initials of both if husband and wife). |
| (3) A contracting purchaser: | The contracting purchaser as well as the owner, where there is a binding contract. |
| (4) A registered (Limited) company: | "The Secretary" at the address of the registered or principal office of the company. (The name of the company must not be prefixed by "Messrs"). |
| (5) A partnership: | Each of the partners, or a solicitor authorised and will to accept service. Alternatively, under section 233(3) (b) of the Local Government Act 1972 service may be made on "a partner or a person having the control or management of the partnership business". |
| (6) A trusteeship: | Each of the trustees. Alternatively, one trustee (or a solicitor) authorised by all the trustees and who is willing to accept service. |
| (7) Executors: | Each of the executors, unless they have renounced their rights in favour of one only; in which case, that one. Alternatively, a solicitor authorised and willing to accept service. |
| (8) A charity: | Each of the trustees or a solicitor authorised and willing to accept service. (It should <i>not</i> be served on the Official Trustee of Charity Lands). |
| (9) An individual or group of individuals trading under a "Business Name": | Each of the individuals, in their own name, showing also the name under which they are trading. Alternatively, a solicitor authorised and willing to accept service. |
| (10) Any other body: | The secretary or clerk of that body. |

Where it is proposed to serve notice on a solicitor, he should be asked by the acquiring authority to confirm that he is authorised and willing to accept the service and also to furnish the full names and addresses of all the individuals, partners, trustees, executors etc for whom he will accept service.

47. Where an order includes Church of England property (*i.e.* land belonging to any ecclesiastical benefice, or being or forming part of a church subject to the jurisdiction of the bishop of any diocese, or the site of such a church, or being or forming part of a burial ground subject to such

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jurisdiction), any notice required to be served on the owner must be served also on the Church Commissioners (formerly the Ecclesiastical Commissioners) in accordance with section 12(3) of the Acquisition of Land Act 1981.

48. If there is doubt as to which of two persons is the owner both persons should be shown and served. Questions of title can be resolved later. If there is uncertainty as to whether an occupier really is a tenant for a month or less, their name should be included in the occupiers' column and they should be served.

49. It is helpful if the occupiers' column can be completed in all cases. Where a named owner or lessee is the occupier, the word "owner" or "lessee" should be inserted. Where the property is unoccupied, the word "unoccupied" should be inserted. Where the occupier is a tenant for a month or less, a dash should be inserted in the occupiers' column. The uniform adoption of this system would save many detailed enquiries.

v. Unknown Ownership and Similar Cases

50. Where there is difficulty in tracing owners, under section 6(4) of the Acquisition of Land Act 1981 a notice or notices may be posted on or near the land. The word unknown should be entered in column 3 of the Schedule.

E. Order Maps

i. The Scale and North Point

51. The use of a sufficiently large scale for the map is most important. Note (f) to Forms 1-3 in the Schedule to the Regulations states that maps should normally be on a scale of 1/500 or 1/1250 or 1/2500. Where a particular section of a scheme involves the acquisition of a considerable number of small plots, the use of insets on a larger scale is necessary if the main scale of the map is small; the scale of the inset must be clearly shown. *Every sheet of a CPO map should have the north point prominently displayed on it.*

ii. The Heading

52. The heading of the maps should agree in all respects with the description of the map heading stated in the body of the order. This means that the words "Map referred to in the ..." should be included in the actual heading or title of the map.

iii. Separate Colouring of "Rights" and "Title" Plots

53. Where it is proposed to acquire new rights over land as distinct from acquiring title to the land, Note (f) to Forms 1-3 states that plots of land affected by a rights acquisition should be shown by different colourings on the CPO map. The use of a different colour (or different symbol) is a statutory requirement. (See also the Department of Transport Notes on the Preparation of Land Plans and Reference Schedules).

iv. The Boundaries

54. The boundaries between the plots should be clearly delineated. If in any particular case it is impossible to indicate a boundary precisely, the land in question should be shown as one plot and all the interested persons should be included in the relevant column in the Schedule. Each plot must be separately numbered to correspond with the order Schedule.

v. Use of Stipple

55. Where maps are prepared with the plots shown in stipple it should be ensured that there is clear delineation and distinction between the various plots.

56. There must be no discrepancy between the order Schedule and the map or maps, and no room for doubt on anyone's part as to the precise areas of land and interests which are included in the order, otherwise the order may be rejected.

F. Notices to Interests

57. The date on which the order is made, *i.e.* sealed, is the date which should be inserted in the

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notice as the date of the making of the order and *not* the date of the Council's resolution to make the order. See DOE Circular 14/94, Appendix E, paragraph 25.

G. Deposit of Order for Public Inspection

58. It is laid down in sections 11 and 12 of the Acquisition of Land Act 1981 that the prescribed notices which are required to be published and served will name a place "within the locality" where copies of the order and maps may be inspected. This means that the documents must be deposited within reasonably easy reach of persons living in the area affected (see Notes (j) and (h) to Forms 7 and 8, respectively, of the Regulations). It is not sufficient for local authorities to deposit the documents at their own offices if these are not "within the locality" and Post Offices, Citizens Advice Bureaux and public libraries should be used if necessary in order to satisfy statutory requirements.

H. Provisions as to Land Acquisition etc

[Note: Section 238(1) of the Act provides that the powers under sections 240 to 246 (with the exception of section 246(2)) are exercisable compulsorily or by agreement.]

i. Means of Access to Private Premises

59. Section 240(1) of the Act gives highway authorities power to acquire compulsorily land for the purpose of providing new means of access to private premises authorised by section 129 or by an order under section 14. (See also paragraph 67 on car parks). Land needed for use in connection with the carrying out of such works may also be included in the compulsory purchase order.

ii. Side Roads

60. Section 240(1) of the Act also empowers the compulsory acquisition of land required in connection with an order made under section 14 for the alteration of side roads which cross or enter the route of a classified road or will otherwise be affected by the construction or improvement of a classified road. Land needed for use in connection with the carrying out of such work may also be included in the CPO.

iii. Working Space etc

61. Section 240(2) of the Act authorises highway authorities to acquire compulsorily land adjoining or in the vicinity of an existing highway or the route of a proposed highway in order to enable them to carry out reasonably and effectively works in connection with the construction or improvement of the highway, (*i.e.* land for working space, means of access to construction sites or the provision of spoil dumps, plant and machinery storage space etc), or with the carrying out of works authorised by an order made under section 18 or under section 108(1). (See paragraphs 59 and 60 in relation to working space etc required in connection with works carried out under section 129 or 14.)

iv. Watercourse Diversions

62. Many highway schemes involve the diversion of or execution of works to watercourses and sections 106 and 107 of the Act, make provision for the construction of bridges over or tunnels under navigable watercourses. Sections 108 and 109 give specific powers to divert a navigable watercourse and to enable the construction of side road bridges over or tunnels under a navigable watercourse to be dealt with in the side roads order. Section 110 provides powers to divert non-navigable watercourses and to carry out general works (not involving bridges or tunnels) in respect of both navigable and non-navigable watercourses: the power to acquire land for these purposes is provided in section 240(2)(b), and under section 249(3) the distance limits in relation to compulsory acquisition do not apply to land or rights acquired for this purpose.

63. It will be noted that section 110 of the Act generally provides for watercourse diversion works to be carried out without the acquisition of land and in such cases (see subsections (5) and (7) of that section) a distinct procedure as to serving of notices and hearing of objections is laid down. It is thought, however, that where local highway authorities are proposing to carry out such works in connection with a highway scheme for which they are also making a CPO for other land they will find it advantageous to include in the CPO, rights to carry out the watercourse

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works; this will ensure that all the objections are dealt with under the CPO machinery and so avoid a duplication of procedures for dealing with objections to the same scheme.

v. Public Sanitary Conveniences

64. A county council's power under section 87 of the Public Health Act 1936 to provide public sanitary conveniences (including lavatories) along county roads within the boundary of the highway has been extended by section 114 of the Act to enable them to provide such amenities on land adjoining or in the vicinity of a county road; section 240(4) gives land acquisition powers. Where, however, a county council provide public sanitary conveniences by a county road under section 88 of the 1936 Act it is not thought that any exercise of land acquisition power is likely to be needed.

vi. Lorry Areas

65. Section 115 of the Act sets out the circumstances in which highway authorities are empowered to provide lorry areas, together with buildings connected with their use and a means of access to and from a highway, for the parking of heavy goods vehicles and the handling and a temporary storage of goods carried in such vehicles. Land required in connection with the provision of these facilities can be acquired compulsorily under section 240(5).

vii. Exchange Land (for purposes in paras 59 to 65)

66. The provisions of section 240(6) of the Act give the power to acquire exchange land when, common, open space, or fuel or field garden allotment land is required for implementing one or other of the purposes mentioned in paragraph 59 to 65 above. See also paragraph 81 below re section 246.

viii. Access to Premises Adjoining Car Parks

67. Section 34 of the Road Traffic Regulation Act 1984 makes it possible for local authorities to enable a car park (provided under section 32 of the 1984 Act) to be used as a means of access to premises adjoining or abutting on, that car park. The necessary land acquisition powers are given by an adaptation and extension of section 40 of the 1984 Act (See Appendix I).

ix. Land In Advance of Requirements

68. The provisions of section 248(2)–(4) of the Act (together with Schedule 17) enable highway authorities to use their land acquisition powers to acquire land compulsorily in advance of requirements, subject to one or more of the conditions set out in section 248(3) being fulfilled.

[NOTE: In regard to the condition set out in section 248(3)(c), plans for the scheme as a whole must have been formally approved by the appropriate Government Office for the Region on behalf of the Secretary of State for Transport. It will not however be necessary for detailed engineering drawings of the proposed *second stage* of the schedule to be submitted with the application for approval, outline drawings will suffice].

69. This power is useful, for example, where land is required for the construction of a new road which is designed carriageway road but where it is intended to build only one of the carriageways immediately, or where it is intended to carry out a major highway improvement but only a limited improvement is to be made in the first instance. These powers are also exercisable in relation to the provision of service areas, maintenance compounds and lorry areas. But, as set out in section 248(2), in order to exercise these powers the highway authority must have an immediate intention to throw *all* the land into the highway (e.g. as a very wide verge) or into the service area etc as the case may be, *or* they must intend to carry out immediately some works (e.g. bridge works, cuttings, embankments) wholly or partly on the second stage land, *or* their outline plans for the use of this subsequent stage area must have been approved by the Secretary of State for Transport. Where the land is not to be thrown into the highway immediately it might well be possible for a landowner to retain an area of second stage land under cultivation or for grazing until such time as the highway authority needs it for highway works. The provisions of this power facilitate considerably the forward planning of local authorities' major road projects; it also makes it possible to acquire the necessary land in one operation instead of two or more as well as avoiding the expense of making several CPOs and conducting associated inquiries. The provisions may also be of benefit to landowners whose land might otherwise be subject to piecemeal acquisition.

x. Acquisition of Rights Over Land

70. There are frequent cases where highway schemes necessitate work on land not required to

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form part of the highway. So long as the highway authority have power to carry out such work and the landowner can retain beneficial use of the land, the highway authority need not incur the expense of acquiring and maintaining land unnecessarily. Sections 250 to 252 of the 1980 Act (which should be read with Schedule 19) provide for the compulsory acquisition of rights over land by the creation of new rights.

71. The kind of rights for which these provisions are designed are in the nature of easements ancillary or appurtenant to the highway, proposed highway or other facility. Examples of those likely to be required in connection with highway schemes, and which it appears would be dealt with advantageously under these sections, are as follows:

- (a) the right to construct and maintain a bridge, viaduct, tunnel or other structure to carry a highway over or under land;
- (b) the right to lay and maintain drains and associated works (e.g. inspection chambers); but see also paragraphs 76 to 77;
- (c) the right to carry out works on watercourses (e.g. diversions, widening or deepening channels, filling in old watercourse beds etc);
- (d) the right to place and maintain footings or ground anchors in land;
- (e) the right to reshape or regrade land outside the boundaries of a highway or proposed highway (e.g. placing embankments or shaping cuttings etc);
- (f) the right to place and maintain snow fences, etc on land;
- (g) the right of access for the construction and maintenance of a retaining wall (i.e. on other land to which title will be acquired).

72. However, it is emphasised that the Department does not envisage that these powers can be used by highway authorities in cases where the land will form part of the highway or proposed highway or where the works they wish to carry out will, to all intents and purposes, deprive the landowner permanently of beneficial use of the land; in such cases full title to the land would be appropriate. Similarly, in so far as compulsory acquisition is concerned, full title should be included in the CPO in cases where highway land acquisition powers are exercised to provide for a footpath, bridleway or other highway across land or for a new means of access to premises for a third party.

[NOTE: Sections 250 to 252 do not provide for the compulsory creation of rights for limited periods, though they do not preclude the creation of such rights by agreement. Also sections 242(3), 254 and 255 which are rarely used powers (dealing with the creation of rights) are not affected by these provisions. The general powers in section 13 of the Local Government (Miscellaneous Provisions) Act 1976 under which local authorities may acquire new rights is quite discrete (see section 13(4)) and should not be used in place of powers in the 1980 Act.]

73. CPOs for compulsory acquisition of new rights under sections 250 to 252 of the Act are subject to provisions similar to sections 16 and 19 of the 1981 Act. In the case of a new right over land acquired by statutory undertaker, a certificate may be required under paragraph 3 of Schedule 3 to the 1981 Act (see also paragraph 17 above). In the case of a new right over common, open space or fuel or field garden allotment, the order may be subject to special parliamentary procedure in the same way as orders for acquisition of title are unless, in relevant circumstances, a certificate is given under paragraph 6 of Schedule 3 to the Acquisition of Land Act 1981. [In this respect these provisions differ from those in sections 254 and 255]. Specific power to acquire land to be given in exchange for rights which will burden common or other special category land is contained in section 250(2). Rights acquired under these powers (see section 251) are binding upon successors in title to the land concerned, and where a highway is transferred from one highway authority to another they are exercisable by the transferee authority. Section 251(5) provides in effect that where registered land is affected, the instrument creating rights must be registered under the Land Registration Acts. Section 252 provides that a landowner can require an acquiring authority to take full title to the land instead of the right authorised in a CPO.

xi. Distance Limits

74. Section 249 of and Schedule 18 to the Act specify the distance limits applicable to the compulsory acquisition of land. The distance limits do not apply to the compulsory acquisition of land required for the drainage of a highway, the diversion of a navigable watercourse or the carrying out of works on any part of a watercourse authorised under section 110, or the provision of protection for a highway or proposed highway against snow, flood, landslide or other natural hazards.

xii. Land Burdened by Restrictive Covenants and Third Party Rights

75. Section 260(1) and (2) of the Act empowers highway authorities to include in CPOs which embrace other land, land in which they have already acquired an interest by agreement but

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which is burdened by restrictive covenants or other third party interests. When such a CPO becomes effective, section 44 of the Land Compensation Act 1973 will apply, thus giving persons entitled to the benefit of the covenant or other third party rights, a right to compensation in appropriate circumstances. It is not envisaged that section 260(1) can be used so as to sanction a CPO which does not cover land other than the land in which the highway authority have acquired the interest by agreement. Section 260(3) and (4) provides for enabling lessees of, or contractors operating, a service area or a lorry area to use the land for those purposes, notwithstanding the existence of a restrictive covenant or other third party rights, in the same way that the highway authority themselves could use the land.

xiii. Drainage of Highways

76. Reference has been made in paragraphs 70 to 71 to the power in the Highways Act 1980 to acquire rights over land for drainage purposes but there are several other provisions in, and points arising from, the Act in relation to drainage which are mentioned below.

77. Where it is proposed to lay drains for an existing highway, this work can be done under section 100(1) to (3) of the 1980 Act if the drains are to be laid on land adjoining or near to the highway. In addition a highway authority can, under section 100(5) and (6), use Public Health Act powers to drain their highways and proposed highways. In all these cases the acquisition of specific rights by CPO is unnecessary. The cases where rights acquisitions may be necessary or desirable are, generally, cases involving *new* highways, as section 100(1) to (3) only applies to highways—it does not apply to *proposed* highways.

78. Where rights to lay and maintain drains are involved and they are to be used for discharging water into any watercourse or any drainage or other works vested in or under the control of a navigation authority, the Environment Agency, (in relation to functions of the former National Rivers Authority) or other drainage body within the meaning of the Land Drainage Act 1991, section 339 will apply and the consent of the relevant authority will be needed—though that authority are required not to withhold such consent unreasonably. Before confirming a CPO providing for the acquisition of land or rights in such cases, the Secretary of State for Transport will require to be satisfied that the necessary consents have been given or that the consent of these authorities is not needed.

79. Section 19(1)(b) of the Acquisition of Land Act 1981 enables the Secretary of State for the Environment to give a certificate, in a case where common open space etc is proposed to be acquired compulsorily for the drainage of a highway or partly for the widening and partly for the drainage of a highway. Where such a certificate is given, the order will not be subject to special parliamentary procedure.

80. An adequate width of land should be acquired to permit the use of construction machinery on the land for digging the trench and carrying out the necessary works.

xiv. Power to Acquire Land Outside the Highway Boundary

81. Section 246 of the Act provides the power to acquire land compulsorily (or by agreement) outside the proposed boundary of a highway in order to reduce the adverse effects of the existence or use of the highway on its surroundings, as follows:—

- (i) Section 246(1) provides that highway authorities may acquire land compulsorily for the purpose of mitigating any adverse effect which the existence or use of highways constructed or improved by them (or proposed to be constructed or improved by them) has or will have on the surroundings of those highways. This power enables the acquisition of land needed to maintain or improve the environment of areas adjacent to the road. Having acquired such land, highway authorities may make suitable use of it under the provisions of section 282 or they may dispose of it under existing powers. (The expression “for the purpose of mitigating any adverse effect” is considered to extend to an incidental improvement of the environment.) It is considered desirable that wherever possible section 246(1) land should be included in the same compulsory purchase order as the land required for the highway itself and that the acquiring authority should be in a position to show what they intend to do with the land (e.g. what works under section 282 they propose to carry out (see (vi) below). Compulsory acquisition of land under section 246(1) must begin before the opening of the new or improved highways.
- (ii) Section 246(5) provides that where under the powers of this clause a highway authority acquire land forming part of a common, open space or fuel or field garden allotment, and other land is required for the purpose of being given in exchange, the authority may acquire that other land compulsorily or by agreement.
- (iii) Section 246(4) defines, for the purpose of section 246(3), when the acquisition of any land acquired compulsorily is begun, as being on the date when the notice is published of the

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making of a compulsory purchase order; but if compulsory purchase procedure was begun within the time limited by section 246(3) and not proceeded with, any subsequent compulsory acquisition of the land concerned will continue to be treated as begun within the time limited by section 246(3).

- (iv) Section 250(1) makes it clear that the expression "highway land acquisition powers" includes the power to acquire land under section 246. This means that the powers to acquire rights compulsorily under section 250, the power to make a CPO to clear title under section 260, the provisions relating to concurrent procedure in section 257 and the power to make or confirm a compulsory purchase order in part under section 259 will apply to the acquisition of land under section 246.
- (v) Section 246(7) makes it clear that reference to construction or improvement of highways in section 246 includes references to construction or improvement pursuant to side roads orders. An authority constructing or improving a road pursuant to a side roads order may therefore acquire land under section 246 for mitigating the adverse effects which the side road will have on the environment.
- (vi) Section 282 enables highway authorities to carry out works for mitigating the adverse effects which the existence or use of a highway has or will have on the surroundings of the highway. This means that there are specific powers to erect physical barriers (such as walls, screens or mounds of earth) alongside roads in order to reduce the effects of traffic noise on people living nearby. Section 282(2) ensures that it is possible for the appearance of any earth mounds or other landscaped works provided under section 282(1) to be improved by planting. The provision under section 282(3) that a highway authority may develop or redevelop any land acquired by them under section 246 enables the construction of buildings alongside new or improved roads: such buildings may be constructed so as to act as a barrier against traffic noise or otherwise for the mitigation of adverse effects of the highway on its surroundings.

I. Procedural Points Affecting the Treatment of Objections and the Consideration of Orders

i. Concurrency of Operative Dates of Orders

82. Under section 18(5) of the Act a scheme under section 16 and an order under section 18 (relating to special roads) may be brought into operation on the same date; and section 257(3) makes a like provision in respect of the associated CPO in the case of special road schemes and orders and in the other cases listed in Schedule 20 to the Act.

83. In bringing related schemes and orders into operation on the same date, however, it is important for local highway authorities to bear in mind that whereas a section 16 scheme and a section 18 order come into operation on the date upon which the requisite statutory notice is first published (*i.e.* first published in the London Gazette and local newspaper) or on such later date, if any, as may be specified in the scheme or order, a CPO comes into operation on the date of first publication in the local newspaper of the notice of confirmation of that order by the Secretary of State for Transport—there is no power to fix a *later* operative date in the CPO. Local authorities should therefore take care, in cases of concurrent procedures, to see that the CPO confirmation notice is not published *before* any related Highways Act scheme and/or order has come into force.

ii. Power to Disregard Certain Objections

84. Where a CPO depends on any of the schemes or orders set out in schedule 20 of the 1980 Act, and on which a decision has been given, the Secretary of State for Transport under section 258(1) has power to disregard an objection to the CPO if, in his opinion, it amounts in substance to an objection to the related scheme or order. This power is designed to be used only in cases where a scheme or order and its related CPO are not being processed concurrently.

85. The power to disregard repetitious objections is discretionary and the Secretary of State is not therefore *obliged* to disregard them; he would undoubtedly wish to hear and consider any objection which appeared to raise new points or where, owing to the lapse of time since the earlier decision, changed circumstances might make it desirable to consider alterations to the road scheme as originally proposed. This power to disregard repetitious objections does not extend to persons appointed to conduct public inquiries who—while they may draw the attention of objectors, in appropriate cases, to the existence of these provisions—should listen to and report on any points made by the objectors so that they can be considered by the Secretary of State.

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iii. Submission of "Alternative Route" Objections

86. Provision has been made in section 258(2) and (3) of the Act under which an objector to a CPO who wishes to propound an alternative route at a public inquiry or hearing into objections may be directed to furnish the Secretary of State for Transport with sufficient particulars of the alternative route to enable it to be identified. (Objectors cannot however be required to produce full engineering drawings nor, indeed, to produce them in any particular form.) Objectors must be given at least fourteen days in which to prepare their particulars of the alternative route and they are required to submit them to the Secretary of State not less than fourteen days before the date of the inquiry or hearing. It is the Department's intention to include any such direction in the notice of the inquiry or hearing which is issued at least six weeks before the event. As copies of such submissions, received by the Secretary of State, will need to be sent to the acquiring authority as they are received, but in sufficient time to enable the authority to consider them before the inquiry, it will be the Department's aim to specify a submission date in the notice which would terminate some 3 weeks before the date of the inquiry or hearing.

87. In cases where an objector fails to comply with a direction to submit details of alternative route proposals, both the Secretary of State and any person conducting an inquiry or hearing in connection with the matter have power to disregard the objection insofar as it consists of a submission about an alternative route. But this power is discretionary and neither the Secretary of State nor the inspector is *obliged* to disregard this ground of objection.

iv. Part-confirmation of Compulsory Purchase Orders

88. Section 259 of the 1980 Act empowers the Secretary of State for Transport to confirm part of a CPO and defer his decision on the remaining part. Where an order is confirmed in part, that part and the remaining part will be treated as becoming separate orders for procedural purposes and the notice of confirmation, of the first part of the order, will contain a statement of the effect of the Secretary of State's direction postponing consideration of the remaining part.

89. In deciding whether to exercise his power to confirm, with or without modifications, part of a CPO, the Secretary of State will give very careful consideration to the relationship between that part and the remainder of the order, and he will not use that power in cases where the remaining part is of a controversial nature and the interests of the objectors to that remaining part would be likely to be prejudiced by part-confirmation.

J. Submission of Compulsory Purchase Orders for Highway Schemes for Confirmation by the Secretary of State for Transport

i. Documentary Requirements

90. The documents required by the Department are as laid down in Appendix A to DOE Circular 14/94 and at Appendix V to this circular.

ii. Submission of Made Orders

91. Attention is drawn to the requirements of section 10(3) and to the importance of the words "about to be submitted" in sections 11(2)(a) and 12(2)(b) of the Acquisition of Land Act 1981. What is a reasonable interval in a particular case must depend on the circumstances. But in general, submission of a made order for confirmation is a procedural matter and the Secretary of State has been advised that an objector could have the order quashed if he could show that he had been substantially prejudiced by an authority's failure to submit an order within a reasonable time of publication and service of notices.

iii. Supplementary Information

92. It would also help if, in the application for confirmation, the local authority would:—

- (1) where a distance limit on the acquisition of land is applicable (see paragraph 74), confirm that the plot(s) to which such a limit may relate is/are within 201 metres (220 yards) or 805 metres (880 yards), as appropriate, from the relevant centre line;
- (2) supply a detailed scheme plan which shows the intended works on completion to enable the Minister to get an overall picture of the proposals;
- (3) in every case, indicate whether the CPO covers all outstanding land requirements for the complete scheme. If it does not, the Secretary of State may need to be satisfied that entry to all the land excluded from the CPO can be obtained, when required, before he confirms the CPO

93. It is *not* necessary for District or other professionally qualified Valuers' reports of land estimates to accompany applications to confirm CPOs.

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iv. Adequate Time to be Allowed for Statutory Processes

94. It is important to establish in good time precise details of the land required and to allow adequate time for CPO processes. The minimum times which should be allowed in various circumstances are indicated in Appendix IV to these Notes.

v. Related Side Roads Orders

95. Where there is a related side roads order it should be processed, as far as possible, at the same time as the CPO. Where it is agreed a CPO may be submitted in draft the related side roads order should be submitted at the same time.

K. CPOs Which are Defective or Raise Legal Difficulties

96. Where a CPO is so defective in form or contains serious mistakes, or if the defects or mistakes have been used as a basis for objection by individual landowners, it may be necessary for the Secretary of State to refuse confirmation because of defects in form alone.

97. Whilst only the Courts can rule on the validity of compulsory purchase orders, the Secretary of State would not think it right to confirm an order if it appeared to be invalid.

98. Where a CPO is defective or raises legal difficulties, the procedure which will be put into force by the Secretary of State is on similar lines to that set out in paragraph 23 of DOE Circular 14/94. *now obsoleted para 50.*

L. Re-assessment of Need for Road Scheme

99. The Secretary of State has been advised that the word "required" in section 239 of the Highways Act 1980 is to be understood as "immediately required". Therefore, if after having submitted an order for confirmation a local highway authority for any reason decides to defer the carrying out of the scheme the Department should be informed immediately and the application for confirmation withdrawn.

M. Perusal of Draft Order by the Department

100. For routine clearance of draft orders local highway authorities should obtain advice from their own legal departments. Further advice and guidance on specific and complex or unusual drafting points can be obtained from the Department of Transport, Local Authority orders, Wellbar House, Gallowgate, Newcastle upon Tyne, NE1 4TD. Any advice or guidance provided by the Department would be without prejudice to the Secretary of State's consideration of orders when made and submitted for confirmation.

LOCAL AUTHORITY CIRCULAR 2/97 APPENDIX I

LAND ACQUISITION POWERS TO BE CITED IN COMPULSORY PURCHASE ORDERS FOR HIGHWAYS PURPOSES

Statutory power to be cited	Purpose of proposed acquisition
Road Traffic Regulation Act 1984 Section 40	(a) Provision of off-street parking places, including means of access thereto and therefrom and buildings or other facilities necessary to their use, by County Councils and, with the consent of the County Councils, by District Councils. [NOTE: section 186(1)(a) of the Local Government Act 1972 empowers both County and District Councils to provide off-street parking but under section 39 of the 1984 Act the latter cannot exercise their powers without the consent of the County Council. Where off-street parking places are to be provided by County Councils, section 39(7) of the 1984 Act provides that they shall consult the District Council concerned].
Section 57	(b) Provision of means of access to premises adjoining or abutting on to such parking places. [NOTE: Where the extension given by section 34 of the 1984 Act is relied on that section should be cited.]
	Provision of facilities similar to those in (a) and (b) above by Parish Councils (but subject to the consent of the County Council).

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[NOTE: The power to acquire land compulsorily for such purposes is exercised by the District Council on behalf of the Parish Council under the provisions of section 125 of the Local Government Act.]

Local Government Act 1972 Section 101	Agency agreement with non-highway authorities—see Note 6 to model Forms A, B and C in section 3 of Local Authority Circular 1/97
Highways Act 1980 Section 6 and 8	Construction or improvement of highways by agreement with another local highway authority.
Section 239	(a) construction of a new highway or improvement of an existing highway, and provision of exchange land where common, etc, land is to be acquired for these purposes; (b) improvement or development of frontage to a highway or land adjoining or adjacent thereto; (c) improvement of a highway included in the route of a special road but not yet transferred to the special road authority; (d) the provision of side roads and private accesses by means of an order under section 18 of the 1980 Act; (e) provision of a service area, maintenance compound or other buildings or facilities in connection with a special road.
Section 240	(a) to carry out works authorised by an order under section 14 (<i>i.e.</i> side roads to classified roads, new means of access to premises, diversion of navigable watercourses); (b) provision of new means of access to premises under section 129; (c) use of land in connection with the construction or improvement of a highway or with the carrying out of works authorised by an order under section 18 or under section 14 or 108 (instances or such use are for working space, or for provision of access to a working site); (d) diversion of a non-navigable watercourse or carrying out of other works on any watercourse under section 110; (e) provision of public sanitary conveniences under section 114; (f) the provision of a lorry area under section 115; (g) provision of exchange land where common, etc, land is required for any of the purposes in (a) to (f) above.
Section 245	Provision of a highway depot or other facility needed for the functions of a local highway authority.
Section 246	To mitigate the adverse effect of the existence or use of the highway on its surroundings.
Section 248	The acquisition of land in advance of requirements in the circumstances mentioned in sub-section (3) of this section.
Section 249	The distance limits from the highway applicable to compulsory acquisition are laid down in Schedule 18, Parts I and II.
Section 250	Where provision is made for the compulsory acquisition of rights by the creation of new rights, or where exchange land is to be acquired for common, etc. land to be burdened with new rights.
Section 260	Where land acquired by agreement is included in a CPO so as to override the effects of a restrictive covenant or other third party right.

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APPENDIX IIA

MODEL CPO SCHEDULE—LAND ACQUISITION SCHEDULE

Number on Map	Extent, description and situation of the land	Owners or reputed owners	Lessees or reputed lessees	Occupiers (except tenants for a month or less)
(1)	(2)	(3)	(4)	(5)
1	9.8 square metres. Part of car park at The Elm Tree Public House fronting Darwin Lane, Newtown	Mild & Bitter Ltd High Grove Brewfield Deeshire EX2 1UB	Mr S Noble The Elm Tree Darwin Lane Newtown Exshire EX2 2TS	Lessee
2	12 square metres. Part of the forecourt of No. 2 Darwin Lane, Newtown	Mr M J Pinter 2 Darwin Lane Newtown Exshire EX2 1UZ	—	Owner
3	4 square metres. Part of the factory yard at Russell House, Darwin Lane, Newtown.	Russell and Co (Firley) Limited Russell House Darwin Lane Newtown Exshire EX2 1UR	—	Owner
4	3.3 square metres. Part of the front garden of No. 30 Darwin Lane, Newtown	Chapman & Baker Limited 34/44 Darwin Lane Newtown Exshire EX2 7TR		
5	14 square metres. Part of the front garden of No. 32 Darwin Lane Newtown and of the entrance way to the works at the rear thereof	Mrs M D Fairley Buckfield House Lower Footstead Deeshire	Mr G Hill and Mr H Hill 32 Darwin Lane Mr N Teacher 32 Darwin Lane Newtown Exshire EX2 5TS	Lessees
6	18 square metres. Part of the grounds of No. 34 Darwin Lane, Newtown	Chapman & Baker Limited 34/44 Darwin Lane Newtown Exshire EX2 7TR	—	Owner
7	108 square metres. Arable land, parts of public footpath (XYZ 17), river bank and bed of ditch all on the west of the River Darwin (Part of OS 6001) (Sheet A)	Darwin Farms Ltd Darwin Court Newtown Exshire EX2 6TR	—	Owner

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PART VI—DEPARTMENT OF TRANSPORT CIRCULARS

Number on Map	Extent, description and situation of the land	Owners or reputed owners	Lessees or reputed lessees	Occupiers (except tenants for a month or less)
(1)	(2)	(3)	(4)	(5)
8	187 square metres. Part of an open space known as Martins playing field and bed of ditch on the west of the River Darwin (Part of OS 6001 (Sheet A)).	The Borough of Newtown Town Hall Newtown Exshire EX2 2UR	—	Owner
9	7 square metres. Part of the grounds of the milk depot at No. 82 Darwin Lane, Newtown	Daily Dairy Co 26 Hope Road Milkton Teeshire NE1 2TD	—	Owner
10	21.6 square metres. Part of the grounds of the milk depot at 82 Darwin Lane, Newtown	Daily Dairy Co 26 Hope Road Milkton Teeshire NE1 2TD	—	Owner
11	9 square metres. Part of the front garden of No. 84 Darwin Lane	Daily Dairy Co 26 Hope Road Milkton Teeshire NE1 2TD	—	Owner
12	52 square metres. Part of the forecourt of the former Blue Bowl Public House, Darwin Lane, Newtown	Daily Dairy Co 26 Hope Road Milkton Teeshire NE1 2TD	—	Owner
13	37.4 square metres. Part of the forecourt of The Darwin Public House, Darwin Lane, Newtown	Mild & Bitter Ltd High Grove Brewfield Deeshire EX2 1UB	Mrs G T Bright The Darwin Public House Darwin Lane Newtown Exshire	Lessee
14	5 square metres. Part of the back garden of No. 3 Harbour Road, Newtown	Mr R Shipp 3 Harbour Road Newtown Exshire EX5 7UP	—	Owner
15	416 square metres. Part of small-holding adjoining 32 Beeston Road, Newtown	The Hon Charles Rogers The Mallings Tindon Road Extown EX5 6UP	—	W D Skelton 32 Beeston Road Newtown
16	634 square metres. Arable land forming part of Deeves Farm, Colney Heath, south of St James Street	Lady Elizabeth Bing Wrotham Park Barnham Exshire EX5 5UP	R D Sinclair Deeves Farm Colney Heath Exshire	Lessee

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Number on Map	Extent, description and situation of the land	Owners or reputed owners	Lessees or reputed lessees	Occupiers (except tenants for a month or less)
(1)	(2)	(3)	(4)	(5)
17	902 square metres. Unoccupied site of demolished buildings formerly known as 22-31 Hepworth Villas, Newtown	Unknown	—	—

APPENDIX IIB

MODEL CPO SCHEDULE—MISCELLANEOUS RIGHTS
(OWNERS ETC OMITTED)

Number on Map	Extent, description and situation of the land	Owners or reputed owners	Lessees or reputed lessees	Occupiers (except tenants for a month or less)
(1)	(2)	(3)	(4)	(5)
1	The right to construct and maintain a ditch 144 metres long in square metres of pasture land (Part of O.S. No. 24). (Sheet B).			
2	The right to construct and maintain a 0.5m × 0.5m culvert 4 metres long in square metres of pasture land on the north of the road from Severn Stoke to Purton (Part of O.S. No. 11). (Sheet C).			
3	The right to lay and maintain a 0.3m culvert 125 metres long, in substitution for the existing 6cm pipe culvert, in square metres of pasture land (Part of O.S. No. 82). (Sheet C).			
4	The right to cleanse, widen and deepen the ditch in square metres of land, being partly bed of the ditch and partly pasture land (Part of O.S. No. 40). (Sheet D).			
5	The right to alter the depth of Blundel Brook for metres of its length in square metres of land being partly the bed of the Brook and partly pasture land (Part of O.S. No. 40). (Sheet D).			

PART VI—DEPARTMENT OF TRANSPORT CIRCULARS

Number on Map	Extent, description and situation of the land	Owners or reputed owners	Lessees or reputed lessees	Occupiers (except tenants for a month or less)
(1)	(2)	(3)	(4)	(5)
6	The right to drain and to fill in a ditch for metres of its length (Part of O.S. No. 15) (Sheet E).			
7	The right to construct and maintain a water course 117 metres long, and to divert the River Avon to flow therein, in square metres of pasture land on the north of the road from Severn Stoke to Purton (O.S. No. 667). (Sheet F).			
8	The right to divert the River Avon away from and to fill in square metres of its existing bed on the south side of the railway near Lilbourne Station.			
9	The right to widen the River Salwarpe in 333 square metres of pasture land partly on the south-west of Crown Lane, and partly on the north-east of Queen's Road.			
10	The right to alter the course and depth of the River Dee in 10,280 square metres of land being partly bed of the River and partly pasture land (Part of O.S. No. 43). (Sheet F).			
11	The right to drain and to fill in a pond in square metres of land (Part of O.S. No. 68). (Sheet F).			
12	The right to drain square metres of marshland (Part of O.S. No. 70) (Sheet F).			
13	The right to fill in a depression in square metres of land for the support of the trunk road (Part of O.S. No. 25). (Sheet G).			

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Number on Map	Extent, description and situation of the land	Owners or reputed owners	Lessees or reputed lessees	Occupiers (except tenants for a month or less)
(1)	(2)	(3)	(4)	(5)
14	The right to construct and maintain a bridge to carry the By-Pass over 124 square metres of Church Lane on the south-east of its junction with Brewers Lane.			
15	The right to construct and maintain a viaduct to carry the special road over 53 square metres of vacant land in Boston Park Road, Brentford.			
16	The right to construct and maintain a bridge to carry the new highway over 2,460 square metres of the River Trent at Newark.			
17	The right to carry out works in square metres of land forming the bed and banks of the River so as to provide an even gradient and flow therein.			

APPENDIX IIIA

SPECIMEN DRAFT COP
HIGHWAY AUTHORITY MAJOR ROAD SCHEME
[TITLE OF THE ORDER]
THE HIGHWAYS ACT 1980 AND THE
ACQUISITION OF LAND ACT 1981

[NOTE:
The figures in this
margin are the num-
bers of the relevant
sections]

The Council (in this order called
"the acquiring authority") hereby make the following order:

1. Subject to the provisions of this order the acquiring authority are,
under sections [6][8] 239, 240 [and] [246] and [249] [and] [250] of the
Highways Act 1980, hereby authorised to purchase compulsorily for
the purpose[s] of—

(239
and
240)

(1) the [construction] [and] [improvement] of a highway
between and
..... at
in the [Borough] [District] of
in the County of

(239
and
249)

(2) the construction of highways to connect the above men-
tioned highway with the existing road system at [brief descrip-
tion of locality of interchanges];

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- (239 and 249) (3) the improvement of [the following highways:— here name highways to be improved—in the said—description of locality] [highways in the vicinity of the route[s] of the above mentioned highways] [in pursuance of the Side Roads Order 19];
- (240) (4) the provision of new means of access to premises [in pursuance of the Side Roads [and Other Words] Order 19];
- (240) (5) [the diversion of a [navigable] watercourse and] the carrying out of [other] works on watercourses in connection with the [construction] [and] [improvement] of highways [and the provision of new means of access to premises] as aforesaid;
- (240) (6) use by the acquiring authority in connection with the [construction] [and] [improvement] of highways [the diversion of a navigable watercourse] [and the provision of new means of access to premises] as aforesaid;
- (239 and 249) (7) the improvement or development of frontages to the above mentioned [new and existing] highways or of the land adjoining or adjacent thereto; and
- (246) (8) mitigating the adverse effect which the existence or use of [certain of] the highway[s] proposed to be constructed or improved [as mentioned in article[s] of this order] will have on the surroundings thereof,

the land which is described in the Schedule hereto and is delineated and shown coloured pink on the map hereinafter mentioned [and the rights which are specified in the said Schedule over the land which is described therein and is delineated and shown coloured blue on the said map]. The map aforesaid is a map [consisting of ... sheets numbered ... to ... respectively], prepared in duplicate, sealed with the Common Seal of the acquiring authority and marked ... "Map referred to in the Compulsory Purchase Order 19 ". One duplicate of the map is deposited in the offices of the acquiring authority and the other is deposited in the offices of the Secretary of State for Transport.

[2. Parts II and III of Schedule 2 to the Acquisition of Land Act 1981 are hereby incorporated with this order subject to the modification that references to the said Part[s] of the said Schedule to the undertaking shall be construed as references to any building or work constructed or to be constructed on that part of the land authorised to be purchased [*hatched black*] on the said map [*or, as the case may be, on the land over which new rights are authorised to be acquired*].]

APPENDIX IIIB

NOTES FOR USE IN DRAFTING THE PURPOSES OF A CPO FOR LOCAL HIGHWAY AUTHORITY ROAD SCHEMES (APPENDIX IIIA)

The Statement of the purposes of acquisition

1. The specimen draft CPO (Appendix IIIA) lists seven purposes. In most cases not all of these purposes will be needed although, if the scheme is a complex one, it may involve a reference to them all. Comments on the purposes are set out below:—

- (1) *Sub-article (1)* deals with the construction of a new highway. What is needed here is a brief description of the new highway. It will normally be necessary to indicate where the new highway begins and where it ends, though there may be cases where this will be unnecessary. For instance, if the new highway is to by-pass a particular town, it will be sufficient to state the purposes by referring to the by-pass as simply "a highway to by-pass [name of town] to the east" or appropriate direction. No reference should be made to this purpose when a highway is merely being improved.
- (2) *Sub-article (2)* deals with the slip roads. A major new highway scheme today will nearly always involve the construction of interchanges or slip roads or other means of con-

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necting the new highway at points along its length with the existing road system. Some mention of these ancillary roads should be made in the statement of purposes, though the description need not be very elaborate. The specimen envisages a brief description of the locality of each interchange.

- (3) *Sub-article (3)* deals with the improvement of highways in connection with the new road scheme. A major road scheme today will almost always either be part of a larger scheme which involves the improvement of other highways, or will itself be a scheme involving the alteration of highways in the vicinity of its route (*i.e.* the side roads). If only a few highways need to be altered, it may be most convenient to name them in the CPO but where a large number of highways will be affected by side road alterations, some general reference such as "existing highways in the vicinity of the route[s] of the above mentioned highway[s]" will be more appropriate. If the improvement is being carried out in pursuance of a side roads order under section 14 of the Act, this should be mentioned. Where, as will often be the case, the alteration of the side roads will involve the construction of new side roads as well as the improvement of existing side roads, this should be made clear. In this event sub-article (3) could be reworded on the following lines "(3) the construction of other highways and the improvement of existing highways in the vicinity of the route[s] of the above mentioned highway[s] [in pursuance of the Side Roads Order 19...]" In framing sub-article (3) the aim should be to give a clear and accurate picture of what is proposed, while avoiding a mass of detail which will be difficult to read and can, so easily, be wrong in some particular. If it is felt desirable to list specific improvements, this can be done in the statement of reasons. There is no need to specify against each purpose stated in the CPO the particular section in Part XII of the Highways Act 1980 under which improvements are being carried out. In cases where a side roads order is involved, this order must be made not later than the date on which the CPO is made.
- (4) *Sub-article (4)* deals with the provision of new means of access to premises. Such provision may be dealt with by means of an order under sections 14 and 125 of the 1980 Act, or it may be dealt with under section 129 without an order. If only a few new means of access are proposed, they can be specifically identified, but if a significant number of new means of access are to be provided then a more general reference would appear to be desirable. Again if they are to be provided in pursuance of an order, there should be a reference to the order.
- (5) *Sub-article (5)* refers to the diversion of navigable or other watercourse and the carrying out of other works on watercourses in connection with the highway scheme. If the scheme is one which will involve such diversion or other works then it seems desirable that a CPO should specifically refer to this fact.
- (6) *Sub-article (6)* speaks of use in connection with the highway works. The purposes here envisaged are those referred to in section 240(1) or (2)(a) of the Act. It will normally be found desirable to make use of this power in cases where the highway authority wish to acquire land outside the boundaries of the new or improved highway for use as working space or as means of access to working sites or for other ancillary purposes of this nature (*e.g.* where the line of new construction or improvement cuts through a building and it is impracticable for the scheme to be carried out unless the entire building is demolished). However, this power is not a licence to include excess land in the CPO and the necessity for any land outside the site of the highway works should be strictly justified in the Statement of Reasons, *e.g.* gardens attached to buildings which it is necessary to acquire for demolition purposes.
- (7) *Sub-article (7)* deals with the improvement or development of frontages or of land adjoining or adjacent to the highways affected (see section 239(6) of the Act). The purposes of the acquisition here are somewhat wider than the purposes referred to in (6) above. Where it is proposed to acquire significant areas of land outside the line of the new or improved highways (and the land is not wanted for side road alterations or new means of access to premises or other purposes mentioned in the previous paragraphs) then the need to include the purpose stated in sub-article (7) should be considered. But highway authorities proposing to invoke section 239(6) should have clear ideas of what they propose to do with the land acquired in exercise of this power and should indicate these ideas in the statement of their reasons for making the CPO.
- (8) *Sub-article (8)* deals with land being acquired to mitigate the adverse effects the existence or use of highways will have on their surroundings. Such land therefore must fall outside the highway boundary. It is now no longer necessary however for the purpose of acquisition of such land to be cited in a separate article or for the land to be differently coloured (in the past yellow) from other title plots.

2. The concluding words to the first sentence in Article 1, in square brackets, to the specimen

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PART VI—DEPARTMENT OF TRANSPORT CIRCULARS

CPO show the material to be included in cases where rights are being acquired. This wording must be in the order and the rights plots shown by a distinct symbol or colour on the plan. Where new rights are being acquired, section 250 of the Act should be referred to in the opening lines of Article 1. The need to cite section 250 does not dispense with the need to also cite the section (*i.e.* 239 or 240 of the Act) which gives the power to acquire land in relation to which the new rights are required.

3. When the CPO relates to a new special road, section 239 of the Act must be cited if (as will usually be the case) the scheme involves a side roads order under section 18. In addition, there should be included in the statements of purposes under (1) and (2) above a reference to the special road scheme under section 16. In all special road cases the scheme under section 16 and the side roads order under section 18 must have been made by the local highway authority not later than the date on which the CPO is made.

APPENDIX IV

A GUIDE SHOWING TIMES WHICH SHOULD BE ALLOWED FOR DIFFERENT STEPS IN THE PROCESSING OF A COMPULSORY PURCHASE ORDER

COLUMN (1) PROCEDURAL STAGE	COLUMN (2) NO OBJECTIONS	COLUMN (3) OBJECTIONS REMOVED WITHOUT NEED OF AN INQUIRY	COLUMN (4) INQUIRY
1. Application submitted for confirmation of Order (normally prior to its publication).	—	—	—
2. Order objection period from—			
(i) Service of Notice upon Land Interests, and	MINIMUM OF 3 WEEKS	MINIMUM OF 3 WEEKS	MINIMUM OF 3 WEEKS
(ii) Publication of Notice			
Objection periods in (i) and (ii) not always being concurrent.			
3. Secretary of State for Transport gives Notice of his intention to hold an Inquiry.	N/A	WITHIN 2 WEEKS OF THE LAST DATE FOR RECEIPT OF OBJECTIONS, OR THE DATE OF SUBMISSION OF THE ORDER APPLICATION (WHICHEVER OF THOSE DATES IS THE LATER).	WITHIN 2 WEEKS OF THE LAST DATE FOR RECEIPT OF OBJECTIONS, OR THE DATE OF SUBMISSION OF THE ORDER APPLICATION (WHICHEVER OF THOSE DATES IS THE LATER).

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COLUMN (1) PROCEDURAL STAGE	COLUMN (2) NO OBJECTIONS	COLUMN (3) OBJECTIONS REMOVED WITHOUT NEED OF AN INQUIRY	COLUMN (4) INQUIRY
4. Department's assessment of Order's confirmability intechanical and legal terms and possible reference to Departmental Solicitors for clearance.	3 WEEKS FROM DATE OF THE END OF THE ORDER OBJECTION PERIOD, OR THE DATE OF SUBMISSION OF THE ORDER APPLICATION (WHICHEVER OF THOSE DATES IS THE LATER).	3 WEEKS FROM DATE OF THE END OF THE ORDER OBJECTION PERIOD, OR THE DATE OF SUBMISSION OF THE ORDER APPLICATION (WHICHEVER OF THOSE DATES IS THE LATER).	3 WEEKS FROM THE DATE OF THE END OF THE ORDER OBJECTION PERIOD, OR THE DATE OF SUBMISSION OF THE ORDER APPLICATION (WHICHEVER OF THOSE DATES IS THE LATER).
5. Promoting authority serves their statement of case for the Order upon the Secretary of State for Transport and objectors.	N/A	NOT LATER THAN 6 WEEKS FROM THE NOTICE OF INTENTION TO HOLD AN INQUIRY (DETAILED AS PROCEDURE 3).	NOT LATER THAN 6 WEEKS FROM THE NOTICE OF INTENTION TO HOLD AN INQUIRY (DETAILED AS PROCEDURE 3).
6. Return of case from Departmental Solicitors, if applicable.	—	—	—
7. Public Inquiry held.	N/A	N/A	AT PROMOTING AUTHORITIES SUGGESTION BUT NOT EARLIER THAN 13 WEEKS FROM THE DATE OF THE LETTER SUGGESTING INQUIRY DATES (TO ENABLE ARRANGEMENTS TO BE MADE/ NOTICE OF INQUIRY TO BE SERVED) AND NOT LATER THAN 22 WEEKS FROM THE DATE OF NOTICE OF INTENTION TO HOLD THE INQUIRY (DETAILED AS PROCEDURE 3).
8. Receipt of Inspector's Report	N/A	N/A	—

PART VI—DEPARTMENT OF TRANSPORT CIRCULARS

COLUMN (1) PROCEDURAL STAGE	COLUMN (2) NO OBJECTIONS	COLUMN (3) OBJECTIONS REMOVED WITHOUT NEED OF AN INQUIRY	COLUMN (4) INQUIRY
9. Issue of the Secretary of State's decision on the Order and its confirmation if so decided.	WITHIN 5 WEEKS OF THE END OF THE ORDER OBJECTION PERIOD, OR WITHIN 2 WEEKS OF RETURN OF CASE FROM DEPARTMENTAL SOLICITORS OR 2 WEEKS FROM THE DATE OF CLEARANCE OF ALL OUTSTANDING MATTERS	WITHIN 5 WEEKS FROM DATE OF THE END OF THE ORDER OBJECTION PERIOD; WITHIN 2 WEEKS OF RETURN OF CASE FROM DEPARTMENTAL SOLICITORS AND/OR CLEARANCE OF ALL OUTSTANDING MATTERS; OR 2 WEEKS FROM WITHDRAWAL OF LAST OBJECTION WHICHEVER IS APPLICABLE.	10-16 WEEKS FROM RECEIPT OF INSPECTOR'S REPORT (DETAILED AS PROCEDURE 8).

NOTES

Handling times for procedures dealt with by third parties are outside the control of the Local Authority Orders Section, namely the time a case will spend with Departmental Solicitors and the time taken by an Inspector to produce his report. In both cases times will vary depending on the size and complexity of the order proposals and in the case of an Inspector's Report, the length of the Inquiry proceedings. The absence of Departmental solicitor's comments on a case will not prevent commencement of the Inquiry process, unless the Department's initial assessment of the order reveals any deficiency or outstanding matter that may need to be resolved before embarking upon Inquiry proceedings.

The procedural times listed assume a "complete" application submission as made at Stage 1 (see Appendix V for application requirements). Omissions can lead to delays in commencing, or progressing, the procedures.

A Highway(s) CPO is usually associated with other Orders/permissions or consents handled jointly. The 22 week Inquiry limit detailed at 7 above (as laid down by the Compulsory Purchase by Non-Ministerial Acquiring Authorities (Inquiries Procedure) Rules 1990, S.I. 1990/512) may be extended in such cases by differing Inquiries and other procedural timings of those associated matters.

In the Department's experience most CPOs are the subject of a public local inquiry. Based on a Council suggesting the earliest possible dates for an inquiry, *THE COUNCIL SHOULD ALLOW NOTHING LESS THAN 13 MONTHS FOR COMPLETION OF THE ORDER PROCEDURES*. This period will be lengthened where later inquiry dates are suggested, or when the order is associated with other Orders/consents subject to lengthier procedural timescales or later submission by the Council. It is for the Council to judge the additional timescale involved in such cases, although the Department's view is that it would not be sensible for the Council *TO PROGRAMME FOR A PERIOD OF LESS THAN 18 MONTHS*.

If an Order is to be subject to special parliamentary procedure, an extra 13 weeks (minimum) should be allowed, following order confirmation.

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APPENDIX V

DOCUMENTS TO BE SUBMITTED WITH A MADE COMPULSORY PURCHASE ORDER

1. At least 1 SEALED ORDER and 2 SEALED PLANS.
2. Four copies of SEALED ORDER AND PLAN (Circular 14/94).
3. CERTIFICATES TO ACCOMPANY APPLICATION—
 - (a) CERTIFICATE IN SUPPORT OF ORDER SUBMISSION (APPENDIX D Circular 14/94 in which the Council will certify to the Secretary of State for Transport—
 - (1) the form of the Notice used and in what local newspaper/s and when it was published.
 - (2) the form of the Notice served on land interests, on whom it was served and the last date for objections.
 - (3) if the CPO includes land in unknown ownership, that Notices were served in accordance with section 6(4) of the Acquisition of Land Act 1981.
 - (4) the details of the deposit of the Order for public inspection.
 - (5) on whom the Council's Statement of Reasons for making the order has been served and
 - (6) if Ecclesiastical land is included in the order, that the Church Commissioners have been served Notice of the effect of the Order.Statements as in (1), (2), (4) and (5) will apply in all cases. Those in (3) and (6) only as the circumstances may exist in the Order. A check must be made in the Scheduled listings of the Order for land in the said categories (3) and (6).
 - (b) CERTIFICATE REGARDING BUILDING PRESERVATION, OR NIL RETURN (Appendix H Circular 14/94) *Schedule 5 Circular 96/97*
 - (c) CERTIFICATE WHETHER ORDER CONTAINS (a) ANY CONSECRATED LAND AND (b) ANY LAND IN A CONSERVATION AREA
4. 2 COPIES of the Council's STATEMENT OF REASONS (which will have been sent with personal notices to land interests).
5. COUNCIL'S RESOLUTION TO MAKE THE ORDER.
6. A STATEMENT of the position on planning permission (if not included in Statement of Reasons). The Secretary of State will not confirm an Order before a decision has been made on associated planning applications.
7. A detailed Engineering Drawing of the proposals contained in the Order (Minimum scale 1:2500, 1:1250 preferred in complex cases), unless already submitted in any related Scheme and/or SRO application submission.
8. A Statement from the Council indicating whether the CPO covers all outstanding land requirements for the completed scheme.

Preparing and Making
Bridge/Tunnel Schemes
under s106 of the Highways Act 1980
and Orders under s108 for the
Diversion of Navigable Waters

**NOTES ON THE PREPARATION,
PUBLICATION AND SUBMISSION OF:**

- i) SCHEMES UNDER SECTION 106(3) OF THE HIGHWAYS ACT 1980 FOR THE
CONSTRUCTION OF BRIDGES OVER OR TUNNELS UNDER NAVIGABLE
WATERS AS PART OF A HIGHWAY OR PROPOSED HIGHWAY

- ii) ORDERS UNDER SECTION 108 OF THE HIGHWAYS ACT 1980 FOR THE
DIVERSION OF NAVIGABLE WATERCOURSES IN CONNECTION WITH THE
CONSTRUCTION AND/OR IMPROVEMENT OF HIGHWAYS AND/OR THE
PROVISION OF NEW MEANS OF ACCESS TO PREMISES FROM A HIGHWAY

FOR WHICH THE SECRETARY OF STATE FOR THE ENVIRONMENT, TRANSPORT
AND THE REGIONS IS THE CONFIRMING AUTHORITY

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PREAMBLE

1. Many highway construction and/or improvement proposals involve the carrying out of works affecting watercourses. The highway proposals may make it necessary for a watercourse to be bridged or for it to be diverted.
2. Where a watercourse is navigable (ie subject to public rights of navigation) the watercourse is in reality a water highway. Any unauthorised interference with navigation on the waterway may therefore constitute a public nuisance and, in the absence of statutory authority, may be actionable as such. It is important therefore, when local highway authorities are proposing to carry out works to navigable waterways, as a consequence of highway proposals, that they obtain the relevant statutory authority to do so under powers contained in the Highways Act 1980 ("the Act").
3. There may be occasions, when preparing proposals, where local highway authorities will encounter waterways, particularly canals, which appear abandoned or non-navigable. In such cases highway authorities are strongly advised to consult, as early as possible, one or both of the following to establish the exact status of the waterway concerned:-
 - 1) DETR, Inland Waterways Branch
5/D9 Ashdown House
123 Victoria Street
London SW1E 6DE; and
 - 2) British Waterways
Willow Grange
Church Road
Watford WD1 3QA.

POWERS

Bridge/Tunnels

4. Section 106(3) of the Act provides local highway authorities with the authority to construct bridges over or tunnels under a navigable watercourse. Such authority is given by way of a Scheme made by the relevant local highway authority and confirmed by the Secretary of State.
5. If a bridge or tunnel is being constructed by a local highway authority as part of a new **special road** authority can be given by a Scheme under s16 of the Act citing s106(2). On the other hand, if the bridge or tunnel is being constructed as part of a new **side road** in connection with a local highway authority classified road construction/improvement proposals it can be authorised by an Order under s14 of the Act citing s106(4) (see Local Authority Circular 1/97), and if the construction is part of a new side road in connection with a local highway authority special road, it can be authorised by an Order under s18 of the Act citing s106(4). However, where the bridge or tunnel carries the associated classified road a Scheme under s106(3) is the appropriate means of obtaining authority to construct the bridge or tunnel.

DIVERSION OF NAVIGABLE WATERCOURSES

6. Similarly, s108(1) of the Act may authorise a local highway authority to divert a navigable waterway in connection with highway and highway related proposals. Such authority is obtained by way of an Order made by the relevant local highway authority and confirmed by the Secretary of State. (In this context diversion is generally understood to involve alteration to the line of the watercourse itself rather than simply diverting the water flow which may occur as a result of the construction of bridge supports or abutments).
7. Section 108(4) of the Act makes it possible to include in a Scheme or Order, which provides for the construction of a bridge over or tunnel under navigable waters, provision for the diversion of the watercourse in connection with the construction of the bridge or tunnel. This would permit, for example, a watercourse to be diverted so that the bridge could cross it at right angles.
8. Section 108(5) also makes it possible to provide, in a s14 or s18 Order, for the diversion of a navigable watercourse in connection with highway works. This enables cases where the diversion of the navigable watercourse is not associated with the construction of a bridge or tunnel to be dealt with without the need for separate authority.
9. Whilst there are likely to be cases where diversions of watercourses can be dealt with under s108(1) in most instances it will be more convenient to deal with the diversion within a s14 Order rather than seek separate and distinct authority (see Local Authority Circular 1/97). In addition, s108(6) of the Act makes it clear that a Scheme or Order authorising diversion of a navigable watercourse can also authorise the diversion of any towing path or way adjacent to the watercourse.

TIDAL WATERS

10. Where Schemes or Orders contain proposals for bridges or tunnels affecting tidal waters separate authority from the Secretary of State is required under s34 of the Coast Protection Act 1949. Application for such authority should be made to the Department of the Environment, Transport and the Regions, Ports Division 2, Great Minster House, 76 Marsham Street, London SW1P 4DR. Ports Division should be advised at the earliest possible stage of any such Scheme or Order.

PROCEDURES

11. The procedures applicable to the making of a Scheme under s106(3) of the Act are those detailed at Parts II and III of Schedule 1 to the Act. The procedures applicable to Orders under s108 are those detailed at Parts I and III. In both cases the procedures require that Notice be served on the Environment Agency and every navigation authority. Where there is an unwithdrawn objection to a Scheme, under s106(3), from the Environment Agency or navigation authority on the ground that the bridge or tunnel is likely to obstruct or impede the performance of their functions or to interfere with the reasonable requirements of navigation, the Scheme will be subject to special parliamentary procedure (see s107 of the Act).

EARLY CONSULTATION

12. The procedural provisions of Parts I and II of Schedule 1 to the Act provide formal safeguards for persons and authorities whose interests are likely to be affected. However, local highway authorities who propose to make Schemes or Orders affecting navigable waterways will recognise the importance of full consultation with all such persons and authorities as early as possible before the Scheme or Order is made and published.
13. Prior consultations can lead to explanations or agreed adjustments which obviate the need for formal objections or diminish their scope. This in turn may reduce difficulty and delay in formal proceedings. Drainage authorities, water authorities, cable and telecommunication operators and statutory undertakers are particular examples.
14. It is desirable therefore for promoting authorities to undertake such consultation before making a Scheme or Order. The Secretary of State will require that, when a Scheme or Order is submitted for confirmation, the promoting authority should state what water and drainage authorities and statutory undertakers are likely to be affected; that they (and in every case telecommunication operators) have been given prior notification; and what attitude they have expressed towards the Scheme or Order.

SPECIMEN FORMS

15. At Appendix I(A) is a model form for a Scheme under s106 and at Appendix I(B) is an Order under s108 authorising a promoting authority to construct a bridge over a navigable waterway and to divert a navigable watercourse respectively. In a case where the construction of a bridge or tunnel also involves the diversion of a watercourse it will be necessary to include in the Scheme the reference to s108(4) of the Act in the citation of enabling powers and also Article 2. However, if no diversion is involved then such reference need not be included.

PLANS

16. Promoting authorities may experience difficulty in relation to the plans and specifications for a bridge/tunnel Scheme. The statutory requirements for plans and specifications are given in s107(2) of the Act. This states that the Scheme shall include "such plans and specifications as may be necessary to indicate the position and dimensions of the proposed bridge including spans, headways and waterways". Similar requirements apply under s107(3) to a tunnel and include its depth below the bed of the navigable waters.
17. The most accurate practice is to include the plans and schedule to the Scheme itself. This is how the example at Appendix I(A) is drafted. The inclusion can be achieved by photographic reduction of a larger plan in order to produce a small plan which (without being folded) can be bound up in the Scheme document. Where more than one plan is used these should, wherever possible, be reproduced on one sheet. It is important to remember to remove ratio scales from the plans prior to photographic reduction. The scale shown on the plans must be true to the plans themselves, consequently the use of linear scales is advised.

18. It is normally convenient to have two plans - a plan showing the position of the proposed bridge/tunnel with reference to the properties in the immediate vicinity and also a plan showing the profile of the bridge/tunnel. On this latter plan it is usual to show the dimensions of the spans, the waterways and the headways and in the case of tunnels their depth below the bed of the navigable waters.
19. Where a navigable watercourse is to be diverted in connection with the provision of a bridge or tunnel then the bridge/tunnel plan should also show, by outlining and annotation, the existing channel of the watercourse and the proposed new channel. Where a navigable watercourse is to be diverted by authority of an Order under s108(1), the new and existing channel should be shown, outlined and annotated, on the appropriate site plan. This is unless they would be obscured by other features, in which case a separate site plan should be used.
20. If it is not convenient for plans to be dealt with in the manner suggested above, there is no legal impediment to the use of a deposited plan. However, in that event, the wording must be altered and the place of deposit stated in the Scheme.

SPECIMEN NOTICE OF MAKING

21. Specimen Notices for the making of Schemes under s106 and Orders under s108 are given at Appendix II(A) and II(B) respectively. Notice of making should not be published or served by the promoting authority until they have arranged the deposit and sent the relevant documents to the Department of the Environment, Transport and the Regions, Local Authority Orders Section, Wellbar House, Gallowgate, Newcastle upon Tyne NE1 4TD. A list of supporting documents which should accompany the relevant application is given at Appendix III(A) and III(B) respectively.

CONFIRMATION

22. Schemes under s106 will be confirmed by way of a Statutory Instrument ("SI"), confirmation is not effected by a sealed endorsement of the Scheme itself. Confirmation of an Order under s108(1) however is effected by a sealed endorsement of the Order.
23. A specimen s106 SI is given at Appendix IV. The form of the SI, for the confirmation of s106 Schemes, has been settled so as to follow normal statutory instrument practice and to produce an instrument which will meet the requirements of special parliamentary procedure in those cases where such procedure is applicable. The SI therefore has been drafted on the basis that the full text of the Scheme will be set out in the Schedule to the SI. This text will include the bridge/tunnel specifications and also, where they are part of the Scheme, the bridge/tunnel plans. Where the plans are deposited plans, they will be referred to as such in the SI.
24. The text appearing in the Schedule to the SI will incorporate all modifications made on confirmation. Where the modifications entail alterations to the original plans in the Scheme schedule a new plan, incorporating all the alterations, will be prepared. This will be given the same title as that appearing on the original plan but with the word 'modified' in brackets at the end.

25. Where modifications have been made on confirmation, the particulars of the Council's sealing and attestation will be omitted from the material appearing in the schedule to the confirmation SI, as what appears in the schedule will differ from the contents of the document sealed by the Council.
26. In this way the SI will be in a form suitable for special parliamentary procedure. Whilst such an occurrence will be unusual for s106 Schemes, it is considered wise to adopt a form which will easily fit in with that procedure.
27. Article 1 in the confirmation SI (about the operative date of the Scheme) is included in alternative versions in the attached specimen. The first alternative applies in all cases where the Scheme is not subject to special parliamentary procedure. The second alternative applies when the Scheme is subject to that procedure. No provision about the operative date of the confirmation instrument itself will be included. This is because there is no power in the Act to confirm retrospectively or prospectively. The confirmation is given when the SI is executed and it takes effect in a manner laid down in Schedule 2 to the Act.
28. Where modifications have been made on confirmation, an explanatory note will be added at the end of the SI indicating the general nature of the modifications. In practice it will probably be convenient to put the original Scheme and plan on deposit along with the modified plan, so that interested persons can see exactly what changes have been made.
29. Where special parliamentary procedure is applicable, there will be an explanatory note containing the statement that the date of the coming into operation of the Scheme is the date applicable under section 4 or 6 of the Statutory Orders (Special Procedure) Act 1945. The actual section number of the 1945 Act will be left blank until the special parliamentary procedure is complete, because it will not be known until then. When the procedure is complete the section number of the 1945 Act will be written in.
30. The Public Notice of Confirmation will be published by the Department (see paragraph 1 of Schedule 2 to the Act) in all cases. In special parliamentary procedure cases the notice will be published before the procedure under the Statutory Orders (Special Procedure) Act 1945 is begun. Specimen copies of confirmation Notices for both s106 Schemes and s108(1) Orders are contained in Appendix V(A) and V(B) respectively.

CONCLUSION

31. The foregoing paragraphs of this Note and the model forms deal with the construction of a bridge or tunnel to carry a new highway over/under a navigable watercourse. It is not entirely clear that a s106 Scheme is required when the bridge or tunnel is constructed in connection with the improvement of an existing highway as opposed to the construction of a new highway. Section 92 of the Act deals specifically with the reconstruction of a bridge on the same site or on a new site within 183 metres (200 yds) of the old site and it is arguable that this renders a s106 Scheme unnecessary. However, making a s106 Scheme in such circumstances can do no harm and it is considered that a s106 Scheme will always be desirable if the

construction of a bridge or tunnel over/under navigable waters in connection with an improvement scheme will in any way cause a greater interference with navigation than the existing bridge or tunnel. If a s106 Scheme is used in these cases, the forms will need some adaptation.

32. In addition, the Note and in particular model forms have, to a large degree, been drafted with bridge construction in mind. However, it must be emphasised that they are equally applicable to tunnels under navigable watercourses. In a case involving the construction, by a local highway authority, of a tunnel under a navigable watercourse the various forms should be amended so as to substitute for the reference to a bridge a reference to a tunnel. The plans and specifications in the Scheme should show the position and dimensions of the proposed tunnel and its depth below the bed of the navigable waters.
33. For routine clearance of draft s106 Schemes local highway authorities should obtain advice from their own legal departments. Further advice and guidance on specific and complex or unusual drafting points may be obtained from the Department of the Environment, Transport and the Regions, Local Authority Orders Section, Wellbar House, Gallowgate, Newcastle upon Tyne, NE1 4TD. Any advice or guidance provided by the Department would be without prejudice to the Secretary of State's consideration of Schemes when made and submitted for confirmation.

Specimen section 106(3) Scheme made by a Local Highway Authority

THE COUNCIL OF
(..... BRIDGE) SCHEME 20 ..

NOTES

The Council of
..... (hereinafter referred to as "the
Council") make this Scheme in exercise of their powers under
section 106(3) [and section 108(4)] of the Highways Act 1980
and of all other powers enabling them in that behalf-

*[Include only where Scheme
includes diversion of part of
navigable waters also.]*

1. The Council are authorised to construct over the
navigable waters of the River / Canal the bridge
specified in the Schedule to this Scheme as part of the highway
which they are proposing to construct/improve between
..... and in the Borough of
..... in the said County.

[2. The Council are also authorised in connection with the
construction of the said bridge to divert the part of the navigable
watercourse specified in the said Schedule in the manner shown
in that Schedule].

*[Include only where Scheme
includes diversion of part of
navigable waters also.]*

2/3. This Scheme may be cited as the Council
of (..... Bridge) Scheme 20 ..

Given under the common seal of the Council on the
day of 20..

THE COMMON SEAL of the)
Council was hereunto affixed)
in the presence of)

Chairman of the Council
Clerk to the Council
Chief Legal Officer

THE SCHEDULE TO THE SCHEME

PLANS AND SPECIFICATIONS OF THE BRIDGE

[Here set out the bridge specifications and plan/s, with plan showing diversion of watercourse where necessary. The plan/s and specifications included in the Schedule must indicate the position and dimensions of the proposed bridge including the spans, headways and waterways. Normally there will be a plan showing the position of the bridge in relation to the surrounding area and a plan showing the general design of the bridge on which are marked the dimensions (including the headways and waterways). If diversion of the watercourse is involved, it is likely to be convenient to mark the old channel and the new channel on the plan which shows the position of the bridge. Where any of the foregoing particulars are shown on a deposited plan (ie a plan which is not bound up with the scheme document itself), then the Schedule should include a sentence stating that the relevant particulars are shown on a plan or plans numbered marked with the title of the Scheme, sealed with the Common Seal of the Council and deposited at stated addresses (which should include the address of the offices of the Council), a copy being also deposited at the office of the Secretary of State.]

A typical layout of the Schedule might be -

THE SCHEDULE TO THE SCHEME

PLAN AND SPECIFICATIONS OF THE BRIDGE

The location and general design of the Bridge are shown on the plans/ numbered/and marked "The Council of (..... Bridge) Scheme 20 .., "sealed with the Common Seal of the Council and deposited at (the offices of the Council and of the Secretary of State for the Environment, Transport and the Regions) [see previous notes - this sentence to be included only when the plan/s are not bound up with the Scheme itself and are included as separate sealed deposited plans.]

POINTS OF COMMENCEMENT AND TERMINATION

From a point on the south bank of the River, metres east of [include definitive land marks to clearly define commencement point. Highway junctions are often appropriate].

To a point on the north bank of the River, metres west of [include definitive land marks to clearly define termination point. Highway junctions are often appropriate].

SPAN(S)

A single span of metres.

HEADWAY

Not less than metres above *[use definitive point of reference]* the mean high water spring tide level (MHWS) of metres AOD. *[It is vital that the headway measurement is given from a point in relation to the waterway itself not for instance some feature on the Riverbank. If the headway varies over the waterway from the point of reference used, the 'minimum' headway measurement should be included, ie not less than or a minimum headway of]*

WATERWAY

A minimum clear navigable waterway of metres.

OVERALL DIMENSIONS -

[often included by Councils to complete overall illustration of Scheme, although not essential.]

The Bridge will be metres wide overall and will carry a metre wide single carriageway, with a metre wide hard strip and a footway of metres width on either side.

[Note - Where practicable the text of the specifications should be added to the plan and the plan headed 'The Schedule to the Scheme'.]

Specimen section 108(1) Order made by
a Local Highway Authority

THE COUNCIL of
(..... to ROAD)
(DIVERSION OF RIVER/CANAL) ORDER 20..

The Council of make this Order in exercise of their powers under section 108(1) of the Highways Act 1980 and of all other powers enabling them in that behalf -

1. The Council are authorised, in connection with the [construction/ improvement/alteration of the Road][provision of a new means of access to premises at from the Road] [provision of a maintenance compound at] [provision of a service area atfor use by users of the Motorway (a special road for which the Council are the special road authority)], to divert the part of the navigable watercourse described in the Schedule to this Order and shown on the deposited plan [and also the towing path adjacent to that part] in the manner indicated in that Schedule and shown on that plan.

2. In this Order-

"the Council"

means the Council
of

"the deposited plan"

means the plan numbered
..... marked "The
..... Council of
..... (.....
to Road) (Diversion
of River/Canal)
Order 20 ..", sealed with the Common
Seal of the Council and deposited at the
Offices of the Council at
A certified copy is also deposited at the
Department of the Environment,
Transport and the Regions.

3. This Order may be cited as the Council of
..... (..... to Road) (Diversion of
..... River/Canal) Order 20..

Given under the Common Seal of the Council 20..

The Common Seal of the Council)
was hereunto affixed in the)
presence of -)

THE SCHEDULE

1. **Length of watercourse to be diverted**

The length of watercourse to be diverted is the..... River/Canal between a point *[describe]* and a point *[describe]*. This length is shown in outline and is marked "Length to be filled in" on the deposited plan.

2. **New Length of watercourse to be provided**

The new length of watercourse to be provided is a length between the two points described above. It is shown in outline and marked "New Length" on the deposited plan. The minimum width of the new length shall be..... metres and its minimum depth shall be metres through its entire length.

3. **Length of towing path to be diverted and new length to be provided**

The length of towing path to be diverted is a length adjacent to and on the [south] side of the length of watercourse described in paragraph 1 of this Schedule. It extends from *[describe point]* to *[describe point]* and is shown by zebra hatching on the deposited plan and its centre line is marked there by a black band.

Specimen Notice of Making by LHA of a section 106(3) Scheme
(to be published in London Gazette and local newspaper)

THE COUNCIL OF
HIGHWAYS ACT 1980
THE COUNCIL OF
(..... BRIDGE) SCHEME 20..

THE COUNCIL OF hereby give notice that they have made and submitted to the Secretary of State for the Environment, Transport and the Regions for confirmation, a Scheme under section[s] 106(3) [and 108(4)] of the Highways Act 1980 authorising the Council to construct as part of the new/improved highway between and in the a bridge over the navigable waters of the river/canal [and, in connection therewith, to divert the said river/canal].

COPIES of the Scheme and of the relevant plans and specifications may be inspected free of charge at all reasonable hours from [see Note A below] 20 .. to [see Note B below] 20.. at the offices of the Council and [here state further places of inspection (if any) in the area] and at the Department of the Environment, Transport and the Regions, Wellbar House, Gallowgate, Newcastle upon Tyne NE1 4TD.

ANY PERSON may not later than [see Note B below] 20 .. object to the confirmation of the Scheme by notice to the Secretary of State for the Environment, Transport and the Regions, Local Authority Orders, Wellbar House, Gallowgate, Newcastle upon Tyne, NE1 4TD stating the grounds of objection.

..... 20 .. Secretary to the Council

[The above will need adaptation in particular cases. Notes A and B below must be strictly followed -

- (A) *Insert the date of the first publication of the Notice.*
- (B) *Insert a date not earlier than 43 days after the date of the last publication of the Notice.]*

Specimen Notice of Making section 108(1)
Order by Local Highway Authority

THE COUNCIL OF
HIGHWAYS ACT 1980

The Council of (..... to
..... Road) (Diversion of
River/Canal) Order 20..

THE Council of hereby
give notice that they have made, and submitted to the Secretary of State for the
Environment, Transport and the Regions for confirmation, an Order under section 108(1)
of the Highways Act 1980 for authorising the Council, in connection with their scheme
for *[here briefly describe highway scheme]*, to divert the navigable waters of the
..... River/ Canal at *[and also to divert the adjacent
towing path]*.

COPIES of the Order and of the relevant plans may be inspected free of charge at
all reasonable hours from *[see Note A below]* 20.. to *[see Note B
below]* 20.. at the offices of the Council at,
at *[here state further places of deposit (if any) in the area]*, and at the Department of the
Environment, Transport and the Regions, Local Authority Orders, Wellbar House,
Gallowgate, Newcastle upon Tyne, NE1 4TD.

ANY PERSON may not later than *[see Note B below]* 20.. object to the
confirmation of the Order by notice to the Secretary of State for the Environment,
Transport and the Regions, Local Authority Orders, Wellbar House, Gallowgate,
Newcastle upon Tyne, NE1 4TD stating the grounds of objection.

..... 20.. Secretary to the Council

*[The above will need adaptation in particular cases. Notes A and B below must be strictly
followed:-*

- (A) *Insert the date of the first publication of the Notice.*
- (B) *Insert a date not earlier than 43 days after the date of the last publication
of the Notice.]*

Document Checklist for
Schemes made under section 106(3)
of the Highways Act 1980
for highways Bridge or Tunnel crossings of navigable waters

- (i) at least 2 SEALED SCHEMES WITH INCORPORATED PLAN/S (SEALED PLAN/S IF PLANS ARE "DEPOSITED PLANS", IE NOT BOUND AS PART OF THE SCHEME);
- (ii) at least 3 COPIES OF SEALED SCHEME WITH INCORPORATED PLAN/S (OR DEPOSITED PLAN/S);
- (iii) typed copy of the PUBLIC NOTICE of making of the Scheme, which will be published in the Local Newspaper/s and the London Gazette;
- (iv) a copy of the PRESS CUTTING OF THE PUBLIC NOTICE of making of the Scheme from Local Newspaper/s used and the London Gazette. Cuttings should clearly identify the names of the newspapers in which they were published and the date/s of publication;
- (v) a certificate/statement confirming the statutory requirements in relation to service of notice of the Scheme - as laid down in paragraph 11 of Schedule 1 of the Highways Act 1980 - have been complied with;
- (vi) an original (not copy) negative of each plan comprised in the Scheme - for reproduction purposes in Statutory Instrument preparation should the Scheme be confirmed. Negatives should be submitted rolled in a plan tube (not folded), to ensure proper reproduction quality;
- (vii) a statement on the position on planning permission for the highway to be constructed or the highway to be improved which the Bridge or Tunnel will carry, or under what authoritative order power such highway works will be achieved. The Secretary of State will not confirm a Scheme before a decision has been made on associated planning applications. These may however be under consideration concurrently with Scheme applications and may in some cases feature in joint inquiries proceedings;
- (viii) a detailed ENGINEERING DRAWING of the highways proposals associated with the Bridge/Tunnel scheme and of the Scheme specifications; and
- (ix) a statement as to whether the navigable waters to be crossed by the Scheme are tidal waters which will require consent to be given under section 34 of the Coast Protection Act 1949 to the carrying out of the Bridge/Tunnel works. If this is the case the Council should advise if consent has been given, or has been applied for. The Secretary of State will not confirm a Scheme where section 34 consent is required until a decision has been taken on that consent.

Order under section 108(1) : Documentation Required

- (i) 2 SEALED ORDERS AND PLAN/S;
- (ii) 4 COPIES OF SEALED ORDER AND PLAN/S;
- (iii) typed copy of the PUBLIC NOTICE of making of the Order, which will be published in the Local Newspaper/s and the London Gazette;
- (iv) a copy of each PRESS CUTTING OF THE PUBLIC NOTICE of making of the Order from local Newspaper/s used and the London Gazette. Cuttings should identify clearly the names of the newspapers in which they were published and the date/s of publication;
- (v) 2 copies of Statement of Reasons FOR MAKING THE ORDER;
- (vi) a copy of the COUNCIL'S RESOLUTION TO MAKE THE ORDER;
- (vii) A CERTIFICATE/STATEMENT CONFIRMING THE STATUTORY REQUIREMENTS in relation to the publication and service of notice of the Order - as laid down in Part 1 of Schedule 1 of the Highways Act 1980 - have been complied with;
- (viii) a detailed ENGINEERING DRAWING of the proposals contained in the Order (minimum scale 1:2500, 1:1250 preferred in complex cases);
- (ix) where no Compulsory Purchase Order has been submitted, either a statement that such an Order will be submitted or details of the authority which the Council has obtained to gain entry onto the land needed for the classified road and the associated highway works;
- (x) statement on the position of planning permission if not included in Statement of Reasons.

Specimen section 106(3) Scheme Confirmation Instrument

STATUTORY INSTRUMENTS

20 No

HIGHWAYS, ENGLAND AND WALES

The Council of
 (..... Bridge) Scheme 20..
 Confirmation Instrument 20..
 Made 20..
 Coming into force in accordance with article 1

The Secretary of State for the Environment, Transport and the Regions makes this Instrument in exercise of powers conferred by section[s] 106(3) [and 108(4)] of the Highways Act 1980 (a) and now vested in him (b) and of all other powers enabling him in that behalf-

1. This Instrument may be cited as the Council of (..... Bridge) Scheme 20 .. Confirmation Instrument 20 .. and shall come into force [on the date on which notice that it has been confirmed is first published in accordance with paragraph 1 of Schedule 2 to the Highways Act 1980] [on the date fixed in accordance with the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965(c)*].

2. The Council of (..... Bridge) Scheme 20 .. ("the Scheme") is hereby confirmed [with modifications] [without modifications].

3. The Scheme as confirmed is set out in the Schedule hereto (including the plan(s)) and copies of the Scheme with its accompanying plan(s) [as modified] are deposited at the offices of the Department of the Environment, Transport and the Regions, Great Minster House, 76 Marsham Street, London SW1P 4DR and at the offices of the Council of at

Signed by authority of the Secretary of State

..... 20 ..

Regional Director
 Government Office
 for the North East

(a) 1980 c.66. (b) S.I. 1997/2971. [(c) 1945 c.18. 1965 c.43*]

* This option for SPP cases only

THE SCHEDULE

The Council of
(..... Bridge) Scheme 20 ..

[Here will be set out the full text of the Scheme (including any Schedules) - incorporating all modifications made on confirmation. If the bridge plans are part of the Scheme, then an appropriate photographic reduction of these plans will be included in the Schedule. If however, they have been treated by the Scheme as deposited plans, then they will be treated in the same way in the confirmation instrument.]

**Specimen Notice of Confirmation of a section 106(3) Scheme
by the Secretary of State**

(to be published in London Gazette and local newspaper)

DEPARTMENT OF THE ENVIRONMENT,
TRANSPORT AND THE REGIONS
HIGHWAYS ACT 1980

The Council of
(..... Bridge) Scheme 20 ..

THE SECRETARY OF STATE for the Environment, Transport and the Regions hereby gives notice that he has confirmed [with modifications] the above Scheme which was made by the Council of under section[s] 106(3) [and 108(4)] of the Highways Act 1980 and which, as confirmed, authorises the Council to construct as part of the new/improved highway between and a bridge over the navigable waters of the river/canal [and in connection with the construction of that bridge to divert the said river/canal].

COPIES of the Scheme (as confirmed) and of the relevant plans and specifications may be inspected free of charge at all reasonable hours at the offices of the Council of and at the Department of the Environment, Transport and the Regions, Wellbar House, Gallowgate, Newcastle upon Tyne NE1 4TD.

COPIES of the instrument of confirmation of the Scheme, which is entitled "The Council of (..... Bridge) Scheme 20 .. Confirmation Instrument 20 .." and which contains a copy of the Scheme as confirmed, can be purchased, price either through booksellers or direct from Government bookshops (The Stationery Office).

ANY PERSON aggrieved by the Scheme and desiring to question the validity thereof, or of any provision contained therein, on the ground that it is not within the powers of the Highways Act 1980 or on the ground that any requirement of that Act, or of any regulations made thereunder, has not been complied with in relation to the Scheme, may, within six weeks from the [see note below] apply to the High Court for the suspension or quashing of the Scheme or of any provision contained therein.

..... 20.,

[Note:- In ordinary cases in the space in the last paragraph above, the date of the first publication of the notice of confirmation will be inserted. Where the Scheme is subject to special parliamentary procedure, the final paragraph will read as follows:-

"THE SCHEME as confirmed, being subject to special parliamentary procedure, will become operative as provided by the Statutory Orders (Special Procedure) Act 1945. Except in a case where the Scheme is confirmed by an Act of Parliament under section 6 of the Act, any person aggrieved by the Scheme and desiring to question the validity thereof, or of any provision contained therein, on the ground that it is not within powers of the Highways Act 1980 or on the ground that any requirement of that Act, or of any regulations made thereunder, has not been complied with in relation to the Scheme, may, within six weeks of the date on which the Scheme becomes operative as aforesaid, apply to the High Court for the suspension or quashing of the Scheme or of any provision contained therein".]

Specimen Notice of Confirmation of a section 108(l)
Order by the Secretary of State

(to be published in London Gazette and local newspaper)

DEPARTMENT OF THE ENVIRONMENT,
TRANSPORT AND THE REGIONS

HIGHWAYS ACT 1980

The Council of
(..... to Road)
(Diversion of River/Canal) Order 20 ..

THE SECRETARY OF STATE for the Environment, Transport and the Regions hereby gives notice that he has confirmed [with modifications] the above Order which was made by the Council of under section 108(l) of the Highways Act 1980 and which, as confirmed, provides for authorising the Council, in connection with their scheme for [here briefly describe highway scheme], to divert the navigable waters of the River/Canal at [and also to divert the adjacent towing path].

COPIES of the Order, as confirmed, and of the relevant plans have been deposited and may be inspected free of charge at all reasonable hours at the offices of the Council at and at the Department of the Environment, Transport and the Regions, Wellbar House, Gallowgate, Newcastle upon Tyne NE1 4TD.

ANY PERSON aggrieved by the Order and desiring to question the validity thereof, or of any provision contained therein, on the ground that it is not within the powers of the Highways Act 1980 or on the ground that any requirement of that Act or of any regulations made thereunder has not been complied with in relation to the Order, may, within 6 weeks of the [here insert the date of the first publication of the notice of confirmation] apply to the High Court for the suspension or quashing of the Order or any provision contained therein.

.....

..... 20 ..

Highways Act 1980 c. 66

s. 14 Powers as respects roads that cross or join trunk or classified roads.



Law In Force With Amendments Pending

Version 3 of 4

12 February 2015 - Present

Subjects

Road traffic

Keywords

Authorisations; Highway authorities' powers and duties; Ministers' powers and duties; Road works

14.— Powers as respects roads that cross or join trunk or classified roads.

(1) Provision may be made by an order under this section in relation to a trunk road or a classified road, not being, in either case, a special road, for any of the following purposes:—

(a) for authorising the highway authority for the road—

(i) to stop up, divert, improve, raise, lower or otherwise alter a highway that crosses or enters the route of the road or is or will be otherwise affected by the construction or improvement of the road;

(ii) to construct a new highway for purposes concerned with any such alteration as aforesaid or for any other purpose connected with the road or its construction, and to close after such period as may be specified in the order any new highway so constructed for temporary purposes;

(b) for transferring to such other highway authority as may be specified in the order, as from such date as may be so specified, a highway constructed by the highway authority in pursuance of the order or any previous order made under this section;

(c) for any other purpose incidental to the purposes aforesaid;

and references in this section, with respect to an order made thereunder, to “*the road*” and “*the highway authority*” are references to, respectively, the trunk road or, as the case may be, classified road to which the order relates and the highway authority for that road.

[

(1A) Subsection (1) is subject to [section 33\(4\)](#) of the [Planning Act 2008](#) (exclusion of powers to make or confirm orders in relation to highways for which development consent required).

]

¹

(2) The provision that may be made pursuant to subsection (1)(c) above in an order under this section that provides for the stopping up or diversion of a highway, includes provision for the preservation of any rights—

(a) of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across the highway to be stopped up or diverted; [...]²
[...]³

(3) An order under this section—

(a) in relation to a trunk road [for which he is the highway authority]⁴ shall be made by the Minister, and

(b) [in any other case]⁵ shall be made by the highway authority and confirmed by the Minister.

(4) [Parts I and III of Schedule 1](#) to this Act have effect as to the making of an order under this section; and [Schedule 2](#) to this Act has effect as to the validity and date of operation of any such order.

(5) Subject to subsection (4) above, an order under this section relating to a trunk road may come into operation on the same day as the order under [section 10](#) above relating to that road.

(6) No order under this section authorising the stopping up of a highway shall be made or confirmed by the Minister unless he is satisfied that another reasonably convenient route is available or will be provided before the highway is stopped up.

(7) An order under this section may provide for the payment of contributions—

(a) by the highway authority to any other highway authority in respect of any additional liabilities imposed on that other authority in consequence of the order or of any previous order made under this section;

(b) to the highway authority by any other highway authority in respect of any liabilities so imposed on the first-mentioned authority that would otherwise have fallen to be discharged by that other authority;

and may also provide for the determination by arbitration of disputes as to the payment of such contributions.

Notes

¹ Added by Planning Act 2008 c. 29 [Sch.2 para.23](#) (March 1, 2010)

² Word repealed by Water Act 1989 (c.15), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, Sch. 27 Pt. I

³ Repealed by Water Act 1989 (c.15), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, Sch. 27 Pt. I

⁴ Words inserted by Infrastructure Act 2015 c. 7 [Sch.1\(1\) para.12\(a\)](#) (February 12, 2015 in so far as it confers power

Notes

to make regulations; March 5, 2015 otherwise)

- 5 Words substituted by Infrastructure Act 2015 c. 7 [Sch.1\(1\) para.12\(b\)](#) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Part II TRUNK ROADS, CLASSIFIED ROADS, METROPOLITAN ROADS, SPECIAL ROADS > Powers as respects roads that cross or join trunk roads or classified roads > s. 14 Powers as respects roads that cross or join trunk or classified roads.

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Highways Act 1980 c. 66

s. 14 Powers as respects roads that cross or join trunk or classified roads.



Law In Force With Amendments Pending

Version 3 of 4

12 February 2015 - Present

Subjects

Road traffic

Keywords

Authorisations; Highway authorities' powers and duties; Ministers' powers and duties; Road works

14.— Powers as respects roads that cross or join trunk or classified roads.

(1) Provision may be made by an order under this section in relation to a trunk road or a classified road, not being, in either case, a special road, for any of the following purposes:—

(a) for authorising the highway authority for the road—

(i) to stop up, divert, improve, raise, lower or otherwise alter a highway that crosses or enters the route of the road or is or will be otherwise affected by the construction or improvement of the road;

(ii) to construct a new highway for purposes concerned with any such alteration as aforesaid or for any other purpose connected with the road or its construction, and to close after such period as may be specified in the order any new highway so constructed for temporary purposes;

(b) for transferring to such other highway authority as may be specified in the order, as from such date as may be so specified, a highway constructed by the highway authority in pursuance of the order or any previous order made under this section;

(c) for any other purpose incidental to the purposes aforesaid;

and references in this section, with respect to an order made thereunder, to “*the road*” and “*the highway authority*” are references to, respectively, the trunk road or, as the case may be, classified road to which the order relates and the highway authority for that road.

[

(1A) Subsection (1) is subject to [section 33\(4\)](#) of the [Planning Act 2008](#) (exclusion of powers to make or confirm orders in relation to highways for which development consent required).

-]¹
- (2) The provision that may be made pursuant to subsection (1)(c) above in an order under this section that provides for the stopping up or diversion of a highway, includes provision for the preservation of any rights—
- (a) of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across the highway to be stopped up or diverted; [...]²
- [...]³
- (3) An order under this section—
- (a) in relation to a trunk road [for which he is the highway authority]⁴ shall be made by the Minister, and
- (b) [in any other case]⁵ shall be made by the highway authority and confirmed by the Minister.
- (4) [Parts I and III of Schedule 1](#) to this Act have effect as to the making of an order under this section; and [Schedule 2](#) to this Act has effect as to the validity and date of operation of any such order.
- (5) Subject to subsection (4) above, an order under this section relating to a trunk road may come into operation on the same day as the order under [section 10](#) above relating to that road.
- (6) No order under this section authorising the stopping up of a highway shall be made or confirmed by the Minister unless he is satisfied that another reasonably convenient route is available or will be provided before the highway is stopped up.
- (7) An order under this section may provide for the payment of contributions—
- (a) by the highway authority to any other highway authority in respect of any additional liabilities imposed on that other authority in consequence of the order or of any previous order made under this section;
- (b) to the highway authority by any other highway authority in respect of any liabilities so imposed on the first-mentioned authority that would otherwise have fallen to be discharged by that other authority;
- and may also provide for the determination by arbitration of disputes as to the payment of such contributions.

Notes

- 1 Added by Planning Act 2008 c. 29 [Sch.2 para.23](#) (March 1, 2010)
- 2 Word repealed by Water Act 1989 (c.15), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, Sch. 27 Pt. I
- 3 Repealed by Water Act 1989 (c.15), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, Sch. 27 Pt. I
- 4 Words inserted by Infrastructure Act 2015 c. 7 [Sch.1\(1\) para.12\(a\)](#) (February 12, 2015 in so far as it confers power

Notes

to make regulations; March 5, 2015 otherwise)

- 5 Words substituted by Infrastructure Act 2015 c. 7 [Sch.1\(1\) para.12\(b\)](#) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Part II TRUNK ROADS, CLASSIFIED ROADS, METROPOLITAN ROADS, SPECIAL ROADS > Powers as respects roads that cross or join trunk roads or classified roads > s. 14 Powers as respects roads that cross or join trunk or classified roads.

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Highways Act 1980 c. 66

s. 125 Further powers to stop up private access to premises.



Law In Force

Version 2 of 2

3 July 2000 - Present

Subjects

Road traffic

Keywords

Access; Adjoining premises; Highway authorities' powers and duties; Highways; Ministers' powers and duties; Stopping up orders

125.— Further powers to stop up private access to premises.

(1) Subject to subsection (2) below an order under [section 14](#) or [18](#) above (orders for certain purposes connected with trunk, classified or special roads) and an order under [[section 248](#) of the [Town and Country Planning Act 1990](#)]¹ (order by Minister [or London Borough]² to stop up or divert highway that crosses etc. a main highway) may authorise the appropriate authority—

(a) to stop up any private means of access to premises adjoining or adjacent to land comprised in the route of the relevant road, or forming the site of any works authorised by the order or by any previous order made under the same enactment;

(b) to provide a new means of access to any such premises.

(2) For the purposes of subsection (1) above—

(a) the appropriate authority in the case of an order under [[section 248](#) of the [Town and Country Planning Act 1990](#)]³ is the highway authority for the main highway, and in any other case is the authority by whom the order is made; and

(b) the relevant road is the trunk road, classified road, special road or, as the case may be, main highway to which the order relates.

(3) No order authorising the stopping up of a means of access to premises shall be made or confirmed by the Minister by virtue of subsection (1)(a) above unless he is satisfied—

(a) that no access to the premises is reasonably required, or

(b) that another reasonably convenient means of access to the premises is available or will be provided in pursuance of

an order made by virtue of subsection (1)(b) above or otherwise.

(4) [[Section 252](#) of the [Town and Country Planning Act 1990](#)]⁴ (procedure for making certain orders) in its application to an order under [[section 248](#) of that Act]⁴ which by virtue of subsection (1)(a) above authorises the stopping up of a private means of access to premises has effect as if the persons on whom the Minister [or, as the case may be, the council of a London borough]⁵ is required by [[section 252\(2\), \(3\), \(10\) and \(11\)](#)]⁴ to serve certain documents relating to the order included the owner and the occupier of those premises. In this subsection “owner” in relation to any premises, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple in the premises, whether in possession or in reversion, and includes also a person holding or entitled to the rents and profits of the premises under a lease the unexpired term of which exceeds 3 years.

Notes

- 1 Words substituted by Planning (Consequential Provisions) Act 1990 (c.11), s.4, Sch. 2 para. 45(8)(a)
- 2 Words added by Greater London Authority Act 1999 c. 29 [Sch.22 para.1\(2\)](#) (July 3, 2000)
- 3 Words substituted by Planning (Consequential Provisions) Act 1990 (c.11), s. 4, Sch. 2 para. 45(8)(a)
- 4 Words substituted by Planning (Consequential Provisions) Act 1990 (c.11), s. 4, Sch. 2 para. 45(8)(b)
- 5 Words added by Greater London Authority Act 1999 c. 29 [Sch.22 para.1\(3\)](#) (July 3, 2000)

Part VIII STOPPING UP AND DIVERSION OF HIGHWAYS AND STOPPING UP OF MEANS OF ACCESS TO HIGHWAYS > Stopping up of means of access to highways > s. 125 Further powers to stop up private access to premises.

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Highways Act 1980 c. 66

s. 106 Orders and schemes providing for construction of bridges over or tunnels under navigable waters.



Law In Force With Amendments Pending

Version 3 of 4

12 February 2015 - Present

Subjects

Road traffic

Keywords

Bridges; Highway authorities' powers and duties; Highway construction; Ministers' powers and duties; Special roads; Tunnels; Watercourses

106.— Orders and schemes providing for construction of bridges over or tunnels under navigable waters.

(1) Provision may be made by an order made by the Minister under this subsection or under [section 10](#) above (orders for trunk roads) for the construction of a bridge over or a tunnel under any specified navigable waters as part of a trunk road.

(2) Provision may be made by a scheme under [section 16](#) above (schemes for special roads) for the construction of a bridge over or a tunnel under specified navigable waters as part of a special road.

(3) Provision may be made by a scheme made by a local highway authority [or a strategic highways company]¹ under this subsection, and confirmed by the Minister, for the construction of a bridge over or a tunnel under specified navigable waters as part of a highway or proposed highway which is or is to be a highway (other than a special road) maintainable at the public expense by the authority [or company]².

(4) Provision may be made by an order under [section 14](#) above (roads that cross or join trunk or classified roads) or [section 18](#) above (supplementary orders relating to special roads)—

(a) for the construction of a bridge over or tunnel under specified navigable waters as part of a highway which is to be altered or constructed in pursuance of the order;

(b) where the order authorises the highway authority by whom it is made to provide a new means of access to any premises from a highway, for the access to be provided by means of a bridge over specified navigable waters and for the construction of the bridge.

[

(4A) Subsections (1) and (3) are subject to [section 33\(4\)](#) of the [Planning Act 2008](#) (exclusion of powers to make or

confirm orders or schemes in relation to highways for which development consent required).

]³

(5) [Parts I and III of Schedule 1](#) to this Act have effect as to the making of an order under subsection (1) above, [Parts II and III](#) of that Schedule have effect as to the making of a scheme under subsection (3) above and [Schedule 2](#) to this Act has effect as to the validity and date of operation of any such order or scheme.

(6) A scheme under subsection (3) above may be submitted to the Minister jointly by any two or more [...]⁴ highway authorities, and any such scheme may determine which of those authorities is to be the highway authority for the bridge or tunnel or any part of it, and may provide—

(a) for the performance by that authority, in relation to the bridge or tunnel or that part of it, of any of the highway functions of any other authority who are party to the application, and

(b) for the making of contributions by that other authority to the highway authority in respect of expenditure incurred in the performance of those functions.

(7) References in this section, in relation to any order or scheme, to specified navigable waters are references to such navigable waters (whether the sea, a river or other waters) as may be specified in the order or scheme.

(8) References in the following provisions of this Part of this Act to an order or scheme which provides for the construction of a bridge over or a tunnel under navigable waters are references to any order or scheme made under or by virtue of subsection (1), (2), (3) or (4) above.

Notes

- 1 Words inserted by Infrastructure Act 2015 c. 7 [Sch.1\(1\) para.34\(2\)\(a\)](#) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)
- 2 Words inserted by Infrastructure Act 2015 c. 7 [Sch.1\(1\) para.34\(2\)\(b\)](#) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)
- 3 Added by Planning Act 2008 c. 29 [Sch.2 para.26](#) (March 1, 2010)
- 4 Word repealed by Infrastructure Act 2015 c. 7 [Sch.1\(1\) para.34\(3\)](#) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Part VI CONSTRUCTION OF BRIDGES OVER AND TUNNELS UNDER NAVIGABLE WATERS AND DIVERSION ETC. OF WATERCOURSES > Construction of bridges over and tunnels under navigable waters > s. 106 Orders and schemes providing for construction of bridges over or tunnels under navigable waters.

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Highways Act 1980 c. 66

s. 239 Acquisition of land for construction, improvement etc. of highway: general powers.



Law In Force

Version 2 of 2

12 February 2015 - Present

Subjects

Real property; Road traffic

Keywords

Acquisition of land; Highway authorities' powers and duties; Highway improvement; Trunk roads

239.— Acquisition of land for construction, improvement etc. of highway: general powers.

(1) Subject to [section 249](#) below, the Minister [or a strategic highways company]¹ may acquire land required for the construction of a trunk road, and any highway authority may acquire land required for the construction of a highway which is to be a highway maintainable at the public expense, other than a trunk road.

(2) Subject to [section 249](#) below, the Minister [or a strategic highways company]² may acquire land which in his [or its]³ opinion is required—

(a) for the carrying out of any works authorised by an order relating to a trunk road under [section 14](#) above, or

(b) for the provision of buildings or facilities to be used in connection with the construction or maintenance of a trunk road other than a special road.

(3) Subject to [section 249](#) below, a highway authority may acquire land required for the improvement of a highway, being an improvement which they are authorised by this Act to carry out in relation to the highway.

(4) Subject to [section 249](#) below, a special road authority may acquire land which in the opinion of the authority is required—

(a) for the improvement of a highway which is included in the route of the special road but has not been transferred to the authority by means of an order under [section 18](#) above,

(b) for the purposes of any order made in relation to the special road under [section 18](#) above, or

(c) for the provision of service stations or other buildings or facilities to be used in connection with the construction of the special road or with the use or maintenance of it.

(5) Where a highway authority have acquired, or propose to acquire, in exercise of any of the powers conferred by subsections (1) to (4) above, land forming part of a common, open space, or fuel or field garden allotment, and other land is required for the purpose of being given in exchange for the first-mentioned land, the authority may acquire that other land under the subsection in question as if it were land required for the construction or improvement of a highway, and nothing in [section 249](#) below applies to an acquisition by virtue of this subsection.

(6) A highway authority may acquire land required for the improvement or development of frontages to a highway for which they are the highway authority or of the land adjoining or adjacent to that highway.

Notes

- 1 Words inserted by Infrastructure Act 2015 c. 7 [Sch.1\(1\) para.45\(2\)](#) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)
- 2 Words inserted by Infrastructure Act 2015 c. 7 [Sch.1\(1\) para.45\(3\)\(a\)](#) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)
- 3 Words inserted by Infrastructure Act 2015 c. 7 [Sch.1\(1\) para.45\(3\)\(b\)](#) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

*Part XII ACQUISITION, VESTING AND TRANSFER OF LAND ETC. > Acquisition of land generally > s. 239
Acquisition of land for construction, improvement etc. of highway: general powers.
Contains public sector information licensed under the Open Government Licence v3.0.*

Highways Act 1980 c. 66

s. 240 Acquisition of land in connection with construction, improvement etc. of highway: further general powers.



Law In Force

Version 2 of 2

12 February 2015 - Present

Subjects

Real property; Road traffic

Keywords

Acquisition of land; Highway authorities' powers and duties; Highway improvement

240.— Acquisition of land in connection with construction, improvement etc. of highway: further general powers.

(1) Subject to [section 249](#) below, a highway authority may acquire land which is required for, or for use by them in connection with, the carrying out of works authorised by [section 129](#) above, or by an order relating to a classified road under [section 14](#) above.

(2) Without prejudice to any other powers conferred by this Act—

(a) a highway authority may acquire land which is required for use by them in connection with the construction or improvement of a highway, or with the carrying out of works authorised by an order relating to a trunk road under [section 14](#) above or an order under [section 18](#) or [section 108\(1\)](#) above; and

(b) any power of a highway authority under subsection (1) above or under any provision of this Part of this Act not contained in this section to acquire land for a purpose whose achievement involves the diversion of a navigable watercourse or the carrying out of works under [section 110](#) above includes power to acquire land which is required for carrying out the diversion or, as the case may be, the works.

(3) Subject to [section 249](#) below, the Minister [or a strategic highways company]¹ may acquire land which is required for the purpose of—

(a) providing a trunk road picnic area; or

(b) providing public sanitary conveniences in the exercise of his [or its]² powers under [section 112\(5\)](#) above.

(4) A local highway authority may acquire land which is required for the purpose of providing public sanitary

conveniences in the exercise of their powers under [section 114](#) above.

(5) Subject to [section 249](#) below, a highway authority may acquire land which is required for the purpose of providing a lorry area in the exercise of their powers under [section 115](#) above.

(6) Where, in exercise of any of the powers conferred by subsections (1) to (5) above, a highway authority have acquired, or propose to acquire, for any purpose land forming part of a common, open space or fuel or field garden allotment and other land is required for the purpose of being given in exchange for the first-mentioned land, the authority may acquire that other land.

Notes

- 1 Words inserted by Infrastructure Act 2015 c. 7 [Sch.1\(1\) para.46\(a\)](#) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)
- 2 Words inserted by Infrastructure Act 2015 c. 7 [Sch.1\(1\) para.46\(b\)](#) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

*Part XII ACQUISITION, VESTING AND TRANSFER OF LAND ETC. > Acquisition of land generally > s. 240
Acquisition of land in connection with construction, improvement etc. of highway: further general powers.
Contains public sector information licensed under the Open Government Licence v3.0.*

Highways Act 1980 c. 66

s. 246 Acquisition of land for mitigating adverse effects of constructing or improving highway.



Law In Force

Version 2 of 2

25 September 1991 - Present

Subjects

Real property; Road traffic

Keywords

Acquisition of land; Highway authorities' powers and duties; Highway construction; Highway improvement; Statutory definition

246.— Acquisition of land for mitigating adverse effects of constructing or improving highway.

(1) Subject to subsection (3) below, a highway authority may acquire land for the purpose of mitigating any adverse effect which the existence or use of a highway constructed or improved by them, or proposed to be constructed or improved by them, has or will have on the surroundings of the highway.

(2) Subject to subsection (3) below, a highway authority may acquire by agreement (but not compulsorily)—

(a) land the enjoyment of which is seriously affected by the carrying out of works by the authority for the construction or improvement of a highway;

(b) land the enjoyment of which is seriously affected by the use of a highway which the authority have constructed or improved,

[if the interest of the vendor is a qualifying interest]¹.

[

(2A) Where the highway authority propose to carry out works on blighted land for the construction or improvement of a highway, they may acquire by agreement land the enjoyment of which will in their opinion be seriously affected by the carrying out of the works or the use of the highway if the interest of the vendor is a qualifying interest.

(2B) In this section—

“*qualifying interest*” has the meaning given in [section 149\(2\)](#) of the [Town and Country Planning Act 1990](#), taking references to the relevant date as references to the date on which the purchase agreement is made, and

“*blighted land*” has the meaning given in [section 149\(1\)](#) of that Act.

]²

(3) The powers conferred by subsection (1) above to acquire land compulsorily and the powers conferred by subsection (2)(a) above shall not be exercisable unless the acquisition is begun before the date on which the highway or, as the case may be, the improved highway is first opened to public traffic (“the opening date”); and the powers conferred by subsection (1) above to acquire land by agreement and the powers conferred by subsection (2)(b) above shall not be exercisable unless the acquisition is begun before the end of one year after the opening date.

(4) For the purposes of subsection (3) above the acquisition of any land is begun—

(a) if it is compulsory, on the date on which the notice required by [[section 11](#) of the [Acquisition of Land Act 1981](#)]³ is first published;

(b) if it is by agreement, on the date on which the agreement is made;

and where the compulsory acquisition of any land under subsection (1) above is begun within the time limited by subsection (3) above but is not proceeded with, any subsequent compulsory acquisition of that land under subsection (1) is to be treated for the purposes of this section as begun within that time.

(5) Where under the powers of this section a highway authority have acquired, or propose to acquire, land forming part of a common, open space or fuel or field garden allotment and other land is required for the purpose of being given in exchange for the first-mentioned land, the authority may acquire that other land.

(6) For the purpose of assessing the compensation payable on the compulsory acquisition of land under this section the land is to be treated as if it were being acquired for the construction of the highway or, as the case may be the improvement in question.

(7) In this section references to the construction or improvement of a highway include references to the construction or improvement of a highway by virtue of an order under [section 14](#) or [18](#) above.

Notes

¹ Words substituted by Planning and Compensation Act 1991 c. 34 [Sch.15\(II\) para.26](#) (September 25, 1991)

² Added by Planning and Compensation Act 1991 c. 34 [Pt III s.62\(2\)](#) (September 25, 1991)

³ Words substituted by Acquisition of Land Act 1981 (c.67), s. 34, Sch. 4 para. 31(3)

Highways Act 1980 c. 66

s. 250 Land acquisition powers to extend to creation as well as acquisition of rights.



Law In Force With Amendments Pending

[View proposed draft amended version](#)

Version 1 of 1

Date not available - Present

Subjects

Real property; Road traffic

Keywords

Acquisition of land; Compulsory purchase; Highway authorities' powers and duties; Vesting

250.— Land acquisition powers to extend to creation as well as acquisition of rights.

(1) A compulsory purchase order made in the exercise of highway land acquisition powers may provide for the acquisition of rights over land by creating them as well as for the acquisition of rights already in existence. In this Act “*highway land acquisition powers*” means powers in respect of acquisition of land which are exercisable by a highway authority under any of the following provisions of this Act, namely, [sections 239, 240, 242 to 246](#) and [250\(2\)](#).

(2) Where rights over land are, or are to be, acquired by a highway authority by means of a compulsory purchase order made in the exercise of highway land acquisition powers, and the land forms part of a common, open space or fuel or field garden allotment and other land is required for the purpose of being given in exchange for those rights, the authority may acquire by agreement or compulsorily that other land; and [subsections \(1\) to \(3\) of section 247](#) above apply in relation to this subsection as they apply in relation to the provisions there mentioned.

(3) In [section 247\(1\) to \(4\)](#) above references to acquisition of land include references to compulsory acquisition of rights by virtue of this section.

[

(3A) [Schedule 3](#) to the [Acquisition of Land Act 1981](#) shall apply to the compulsory purchase of a right by virtue of this section.

]

(4) The Acts of [...] 1965 have effect with the modifications necessary to make them apply to the compulsory acquisition of a right by virtue of this section as they apply to the compulsory acquisition of land, so that, in appropriate contexts, references in those Acts to land are to be read as referring, or as including references, to the right acquired or to be acquired, or to land over which the right is, or is to be, exercisable, according to the requirements of the particular context.

(5) For the purpose of giving effect to this section, and without prejudice to the general adaptation of enactments under subsection (4) above—[

(a) [Part II of Schedule 19](#) to this Act has effect for the adaptation of [Part I](#) of the Act of 1965 to cases of compulsory acquisition of rights; and

]³

(c) as respects compensation in such cases, the enactments relating to compensation for the compulsory purchase of land apply, with the necessary modifications, as they apply to compensation on the compulsory purchase of land and interests in land.

(6) References in any enactment or instrument to the acquisition of land, in a context relating to compulsory acquisition under highway land acquisition powers, are to be construed (except in so far as the context otherwise requires) as including references to the compulsory acquisition of a right or rights by virtue of this section.

(7) The provisions of this section are without prejudice to [section 242\(3\)](#) above, [sections 254](#) and [255](#) below and any other provision of this Act which, by virtue of the definition of “land” in [section 329\(1\)](#) below, authorises the acquisition of interests in or rights over land.

(8) References in this section and in [sections 251](#) and [252](#) below to rights over land include references to the right to do, or to place and maintain, any thing in, on or under land, or in the air-space above its surface.

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Notes

- 1 S. 250(3A) inserted by Acquisition of Land Act 1981 (c.67), s. 34, Sch. 4 para. 31(6)
- 2 Words repealed by Acquisition of Land Act 1981 (c.67), s. 34, Sch. 6 Pt. I
- 3 S. 250(5)(a) substituted for s. 250(a) and (b) by Acquisition of Land Act 1981 (c.67), s. 34, Sch. 4 para. 31(7)
- 4 Act amended by Town and Country Planning Act 1990 (c.8), s. 54(1) Power to apply Act conferred by Town and Country Planning Act 1990 (c.8), s. 247(3) Power to exclude Act conferred by Town and Country Planning Act 1990 (c.8), s. 61(3)(b) Act modified by Town and Country Planning Act 1990 (c.8), ss. 28, 54, Sch. 2 Pt. I para. 1(2), Pt. III para. 2, Dartford-Thurrock Crossing Act 1988 (c.20), ss. 3, 19, Sch. 3 para. 9, Channel Tunnel Act 1987 (c.53), s. 35, Sch. 4 paras. 7(1), 10(1) Act amended (in part) by Town and Country Planning Act 1990 (c.8), ss. 27, 28 (1)(2) Act extended by Water Act 1989 (c.15), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 1(2)(xxv)(8), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58, Electricity Act 1989 (c.29), ss. 112(1)(3), Sch. 16 para. 2(4)(d)(6)(9), Sch. 17 paras. 33, 35(1), Gas Act 1986 (c.44), s. 67(1)(3), Sch. 7 para. 2(1)(xl), Sch. 8 para. 33 Functions of Minister of Transport, except those exercisable jointly with Secretary of State under ss. 258, 300(2), Sch. 1 paras. 7, 8, 14, 15, 18, 19, 21, now exercisable by Secretary of State: S.I. 1981/238, arts. 2(2), 3(2)(3)
- 5 Part XII applied by S.I. 1986/564, art. 4(2)(a)
- 6 S. 250(4) modified by Dartford-Thurrock Crossing Act 1988 (c.20), ss. 2, 19, Sch. 2, Pt. II para. 2(3)(a)

Notes

- 7 S. 250(5) modified by Dartford-Thurrock Crossing Act 1988 (c.20), ss. 2, 19, Sch. 2, Pt. II para. 2(3)(a)
-

Part XII ACQUISITION, VESTING AND TRANSFER OF LAND ETC. > Additional provisions with respect to acquisition of rights over land > s. 250 Land acquisition powers to extend to creation as well as acquisition of rights.

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Highways Act 1980 c. 66

s. 260 Clearance of title to land acquired for statutory purposes.



Law In Force

Version 2 of 2

12 February 2015 - Present

Subjects

Real property; Road traffic

Keywords

Clearances; Compulsory purchase orders; Heavy goods vehicles; Highway authorities' powers and duties; Picnic sites; Service areas

260.— Clearance of title to land acquired for statutory purposes.

(1) There may be included in a compulsory purchase order made by a highway authority in the exercise of highway land acquisition powers land in which the authority have already acquired interests by agreement in the exercise of such powers.

(2) Where land is included in a compulsory purchase order as mentioned above, it is to be treated as subject to compulsory purchase for the purposes of the Act of 1965, and that Act shall apply accordingly, except as respects—

(a) the conveyance to the acquiring authority of any interest which they have acquired by agreement before the date of the coming into force of the compulsory purchase order; and

(b) compensation, so far as already paid or the subject of agreement.

(3) Where—

(a) in the exercise of powers conferred by [section 239\(4\)\(c\)](#) above, a special road authority have acquired land for the provision of a service area, or

(b) in the exercise of powers conferred by [section 240\(3\)\(a\)](#) above, the Minister [or a strategic highways company]¹ has acquired land for the provision of a trunk road picnic area, or

(c) in exercise of powers conferred by [section 240\(5\)](#) above, a highway authority have acquired land for the provision of a lorry area,

subsection (4) below has effect with respect to any activities carried on on the land in the course of its use for the purposes of a service area, trunk road picnic area or lorry area, as the case may be.

(4) Any such activities are, as against a person who apart from the acquisition would have had a right to restrain such activities, or a right the exercise of which would be calculated to interfere with them, to be treated as activities of the authority in question (that is to say, the special road authority, the Minister [, strategic highways company]² or the highway authority, as the case may be) carried on under statutory powers, notwithstanding that they are carried on by other persons under contract to the authority or otherwise.

Notes

- 1 Words inserted by Infrastructure Act 2015 c. 7 [Sch.1\(1\) para.50\(2\)](#) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)
 - 2 Words inserted by Infrastructure Act 2015 c. 7 [Sch.1\(1\) para.50\(3\)](#) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)
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Part XII ACQUISITION, VESTING AND TRANSFER OF LAND ETC. > Further provisions with respect to acquisition procedure for exercise of highway land acquisition powers > s. 260 Clearance of title to land acquired for statutory purposes.

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Compulsory Purchase (Inquiries Procedure) Rules 2007/3617

rule 15 Evidence at inquiry



Law In Force

Version 1 of 1

29 January 2008 - Present

Subjects

Planning

15.— Evidence at inquiry

- (1) A person entitled to appear at an inquiry to give, or to call another person to give, evidence at the inquiry by reading a statement of that evidence shall send to the inspector and (in the case of non-ministerial orders) to the acquiring authority, a copy of that statement and, subject to paragraph (2), a written summary of it together with any relevant supporting documents.
- (2) No written summary shall be required where the statement mentioned in paragraph (1) contains not more than 1,500 words.
- (3) The statement and the summary (if any) shall be sent to the inspector and to the acquiring authority not later than—
 - (a) 3 weeks before the date fixed for the commencement of the inquiry, or
 - (b) where, pursuant to [rule 10](#), a timetable has been arranged which specifies a date by which the statement of evidence and summary shall be sent to the inspector, that date.
- (4) Unless paragraph (2) applies, only the summary shall be read at the inquiry unless the inspector permits or requires otherwise.
- (5) The acquiring authority shall afford to any person who so requests a reasonable opportunity to inspect and, where practicable and on payment of a reasonable charge, take copies of any document sent to or by it in accordance with this rule.
- (6) Where the acquiring authority sends a copy of a statement of evidence or a summary to the inspector in accordance with paragraphs (1) and (2), it shall at the same time send a copy to every remaining objector and any other person who has sent an outline statement under [rule 5](#) or a statement of case under [rule 7](#).

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STATUTORY INSTRUMENTS

1994 No. 3263

The Highways (Inquiries Procedure) Rules 1994

PART IV

RULES APPLICABLE TO ALL INQUIRIES

Proofs of evidence

23.—(1) A person entitled to appear at an inquiry who proposes to give, or to call another person to give, evidence at the inquiry by reading a proof of evidence shall send to the inspector and to the promoting authority a copy of the proof and (subject to paragraph (2) below) a written summary thereof.

(2) No written summary shall be required where the proof which it is proposed to read contains not more than 1,500 words.

(3) The proof and summary shall be sent to the inspector and the promoting authority not later than —

- (a) 3 weeks before the date fixed for the commencement of the inquiry, or
- (b) where a timetable has been arranged pursuant to rule 8 or 18, which specified a date by which the proof and summary shall be sent to the inspector, that date.

(4) Unless paragraph (2) applies, only the summary shall be read at the inquiry unless the inspector permits or requires otherwise.

(5) The promoting authority shall afford to any person who so requests a reasonable opportunity to inspect and, where practicable and on payment of a reasonable charge, take copies of any document sent to or by them in accordance with this rule.

Procedure at inquiry

24.—(1) Except as otherwise provided in these Rules, the inspector shall determine the procedure at an inquiry.

(2) Unless in any particular case the inspector with the consent of the promoting authority otherwise determines, the promoting authority shall begin and shall have the right of final reply. The other persons entitled or permitted to appear shall be heard in such order as the inspector may determine.

(3) Persons specified in rule 13(1) and 22(1) shall be entitled to call evidence, and the promoting authority and the statutory objectors shall be entitled to cross-examine persons giving evidence, but, subject to paragraphs (2), (4), (5) and (7), the calling of evidence and the cross-examination of persons giving evidence shall otherwise be at the inspector's discretion.

(4) The inspector may refuse to permit —

- (a) the giving or production of evidence,
- (b) the cross-examination of persons giving evidence, or
- (c) the presentation of any other matter

which he considers to be irrelevant or repetitious but, where he refuses to permit the giving of oral evidence for these reasons, the person wishing to give evidence may submit to him in writing any such evidence or other matter before the close of the inquiry.

(5) Where a person gives evidence at an inquiry by reading a summary in accordance with rule 23(4), the proof referred to in rule 23(1) shall, unless the person required to provide the summary notifies the inspector that he now wishes to rely on the contents of that summary only, be treated as tendered in evidence, and the person whose evidence the proof contains shall then be subject to cross-examination on it to the same extent as if it were evidence he had given orally.

(6) The inspector may direct the promoting authority to provide facilities so that any person appearing at any inquiry may take or obtain copies of documentary evidence open to public inspection, subject to such a person paying to the promoting authority a reasonable charge for the provision of the facilities.

(7) The inspector may require any person appearing or present at an inquiry who, in his opinion, is behaving in a disruptive manner to leave and may refuse to permit that person to return, or may permit him to return only on such conditions as he may specify; but any such person may submit to him in writing any evidence or other matters before the close of the inquiry.

(8) The inspector may allow any person to alter or add to a statement of case served under rule 6 or 16 so far as may be necessary for the purposes of the inquiry; but he shall (if necessary by adjourning the inquiry) give every other person specified in rule 13(1) or 22(1) an adequate opportunity of considering any fresh matter or document introduced by the promoting authority.

(9) The inspector may proceed with an inquiry in the absence of any person entitled to appear at it.

(10) The inspector may take into account any written representation or evidence or any other document received by him from any person before an inquiry opens or during the inquiry, provided that he discloses it at the inquiry.

(11) The inspector may from time to time adjourn an inquiry and, if the date, time and place of the adjourned inquiry be announced at the inquiry before the adjournment, no further notice shall be required.

Site inspections

25.—(1) The inspector may make an unaccompanied inspection of any site to which the order or scheme relates before or during an inquiry without giving notice of his intention to the persons specified in rule 13(1) or 22(1).

(2) The inspector may, during an inquiry or after its close, inspect such a site in the company of a representative of the promoting authority and any statutory objector; and he shall make such an inspection if so requested by the promoting authority or by any statutory objector before or during an inquiry.

(3) In all cases where the inspector intends to make an inspection of the kind referred to in paragraph (2) he shall announce during the inquiry the date and time at which he proposes to make it.

(4) The inspector shall not be bound to defer an inspection of the kind referred to in paragraph (2) where any person mentioned in that paragraph is not present at the time appointed.

Procedure after inquiry

26.—(1) After the close of an inquiry, the inspector shall make a report in writing to the Secretary of State, which shall include his conclusions and his recommendations or his reasons for not making any recommendations.

(2) Where an assessor has been appointed, he may, after the close of the inquiry, make a report in writing to the inspector in respect of the matters on which he was appointed to advise.

(3) Where an assessor makes a report in accordance with paragraph (2), the inspector shall append it to his own report and shall state in his own report how far he agrees or disagrees with the assessor's report and, where he disagrees with the assessor, his reasons for that disagreement.

(4) If, after the close of an inquiry, the Secretary of State —

- (a) differs from the inspector on any matter of fact mentioned in, or appearing to him to be material to, a conclusion reached by the inspector, or
- (b) takes into consideration any new evidence or new matters of fact (not being a matter of government policy),

and is for that reason disposed to disagree with a recommendation made by the inspector, he shall not come to a decision which is at variance with that recommendation without first notifying such of the persons specified in rule 13(1) or 22(1) who appear to him to be likely to be affected thereby, and who appeared at the inquiry, of his disagreement and the reasons for it; and affording them an opportunity either of making written representations to him within 3 weeks of the date of the notification, or (if the Secretary of State has taken into consideration any new evidence or new matters of fact, not being a matter of government policy) of asking within that period for the reopening of the inquiry.

(5) The Secretary of State may, as he thinks fit, cause an inquiry to be reopened, and he shall do so if asked by the promoting authority (in a case where that authority is a local highway authority) or by a statutory objector in the circumstances and within the period mentioned in paragraph (4); and where an inquiry is reopened (whether by the same or a different inspector) —

- (a) the Secretary of State shall send to the persons specified in rule 13(1) or 22(1) who appeared at the inquiry a written statement of the matters with respect to which further evidence is invited; and
- (b) paragraphs (2) to (6) of rule 10 and paragraphs (2) to (7) of Rule 20 shall apply,
 - (i) as if references to an inquiry were references to a reopened inquiry, but with the substitution in paragraph (2) of “4 weeks” for “6 weeks”, and
 - (ii) as if the words “whether or not the revised date is within the applicable period mentioned in paragraph (1)” were omitted from paragraph (4).

Notification of decision

27.—(1) The Secretary of State shall notify his decision, and the reasons for it, in writing to the promoting authority (in a case where the promoting authority is a local highway authority), to the statutory objectors and to any other person who, having appeared at the inquiry, has asked to be notified of the decision.

(2) Where a copy of the inspector's report is not sent with the notification of the decision, the notification shall be accompanied by a statement of his conclusions and of any recommendations made by him; and if a person entitled to be notified of the decision has not received a copy of that report, he shall be supplied with a copy of it on written application made to the Secretary of State within 4 weeks of the date of the decision.

(3) In this rule “report” includes any assessor's report appended to the inspector's report but does not include any other documents so appended; but any person who has received a copy of the report may apply to the Secretary of State in writing within 6 weeks of the date of the Secretary of State's decision, for an opportunity of inspecting any such documents and the Secretary of State shall afford him that opportunity.

Allowing further time

28. The Secretary of State may at any time in any particular case allow further time for the taking of any step which is required or enabled to be taken by virtue of these Rules, and references in these

Rules to a date by which, or a period within which, any step is required or enabled to be taken shall be construed accordingly.

Service of notices by post

29. Notices or documents required or authorised to be served or sent under any of the provisions of these Rules may be sent by post.

Revocation, savings and transitional

30.—(1) Subject to paragraph (2), the Highways (Inquiries Procedure) Rules 1976 (“the 1976 Rules”)(1)are revoked.

(2) The 1976 Rules shall continue to apply to any inquiry into an order or scheme in respect of which a notice of inquiry under rule 4 or 9 of the 1976 Rules has been given before the date on which these Rules come into force, but this paragraph shall not apply to any inquiry reopened by the Secretary of State after the coming into force of these Rules, pursuant to rule 15(3) of the 1976 Rules.

(1) [S.I. 1976/721](#).